

**§ 322. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986**

(a) AVAILABILITY OF BONUS.—The Secretary concerned shall pay a bonus under this section to an eligible career bonus member if the member—

(1) elects to receive the bonus under this section; and

(2) executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty until the member has completed 20 years of active-duty service creditable under section 1405 of title 10.

(b) ELIGIBLE CAREER BONUS MEMBER DEFINED.—In this section, the term “eligible career bonus member” means a member of a uniformed service serving on active duty who—

(1) first became a member on or after August 1, 1986; and

(2) has completed 15 years of active duty in the uniformed services (or has received notification under subsection (e) that the member is about to complete that duty).

(c) ELECTION METHOD.—An election under subsection (a)(1) shall be made in such form and within such period as the Secretary concerned may prescribe. An election under that subsection is irrevocable.

(d) AMOUNT OF BONUS; PAYMENT.—(1) A bonus under this section shall be paid in a single lump sum of \$30,000.

(2) The bonus shall be paid to an eligible career bonus member not later than the first month that begins on or after the date that is 60 days after the date on which the Secretary concerned receives from the member the election required under subsection (a)(1) and the written agreement required under subsection (a)(2), if applicable.

(e) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary concerned shall transmit to each member who meets the definition of eligible career bonus member a written notification of the opportunity of the member to elect to receive a bonus under this section. The Secretary shall provide the notification not later than 180 days before the date on which the member will complete 15 years of active duty.

(2) The notification shall include the following:

(A) The procedures for electing to receive the bonus.

(B) An explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay that the member may become eligible to receive.

(f) REPAYMENT OF BONUS.—(1) If a person paid a bonus under this section fails to complete a period of active duty beginning on the date on which the election of the person under subsection (a)(1) is received and ending on the date on which the person completes 20 years of active-duty service as described in subsection (a)(2), the person shall refund to the United States the amount that bears the same ratio to the amount of the bonus payment as the uncom-

pleted part of that period of active-duty service bears to the total period of such service.

(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under the agreement or this subsection.

(Added Pub. L. 106-65, div. A, title VI, §642(a), Oct. 5, 1999, 113 Stat. 662.)

EFFECTIVE DATE

Section effective Oct. 1, 1999, see section 644 of Pub. L. 106-65, set out as an Effective Date of 1999 Amendment note under section 1401a of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1401a, 1409, 1410.

**CHAPTER 7—ALLOWANCES**

Sec.	Definitions.
401.	Basic allowance for subsistence.
402.	Basic allowance for housing.
403.	Repealed.]
[403a.	
403b.	Cost-of-living allowance in the continental United States.
404.	Travel and transportation allowances: general.
404a.	Travel and transportation allowances: temporary lodging expenses.
405.	Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska.
405a.	Travel and transportation allowances: departure allowances.
406.	Travel and transportation allowances: dependents; baggage and household effects.
406a.	Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.
406b.	Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating.
406c.	Travel and transportation allowances: members assigned to a vessel under construction.
407.	Travel and transportation allowances: dislocation allowances. <sup>1</sup>
408.	Travel and transportation allowances: travel within limits of duty station.
409.	Travel and transportation allowances: house trailers and mobile homes.
410.	Travel and transportation allowances: miscellaneous categories.
411.	Travel and transportation allowances: administrative provisions.
411a.	Travel and transportation allowances: travel performed in connection with convalescent leave.

<sup>1</sup> So in original. Does not conform to section catchline.

- 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours.
- 411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries.
- 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.
- 411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty.
- 411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies.
- 411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.
- 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.
- 412. Appropriations for travel: may not be used for attendance at certain meetings.
- 413. Chairman and Vice Chairman of the Joint Chiefs of Staff.
- 414. Personal money allowance.
- 415. Uniform allowance: officers; initial allowance.
- 416. Uniform allowance: officers; additional allowances.
- 417. Uniform allowance: officers; general provisions.
- 418. Clothing allowance: enlisted members.
- 419. Civilian clothing allowance.
- 420. Allowances while participating in international sports.
- 421. Allowances: no increase while dependent is entitled to basic pay.
- 422. Cadets and midshipmen.
- 423. Validity of allowance payments based on purported marriages.
- 424. Band leaders.
- 425. United States Navy Band; United States Marine Band: allowances while on concert tour.<sup>1</sup>
- [426. Repealed.]
- 427. Family separation allowance.
- 428. Allowance for recruiting expenses.
- 429. Travel and transportation allowances: minor dependent schooling.
- 430. Travel and transportation: dependent children of members stationed overseas.
- 431. Benefits for certain members assigned to the Defense Intelligence Agency.
- 432. Travel and transportation: members escorting certain dependents.
- 433. Allowance for muster duty.
- 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.
- 435.<sup>2</sup> Per diem allowance for lengthy or numerous deployments.
- 435.<sup>2</sup> Funeral honors duty: allowance.

## AMENDMENTS

1999—Pub. L. 106-65, div. A, title V, § 586(c)(2), Oct. 5, 1999, 113 Stat. 639, added item 435 “Per diem allowance for lengthy or numerous deployments”.

Pub. L. 106-65, div. A, title V, § 578(k)(4), Oct. 5, 1999, 113 Stat. 631, which directed amendment of the table of sections at the beginning of chapter 4 of this title by adding item 435 “Funeral honors duty: allowance”, was executed by adding that item 435 to the table of sections of this chapter to reflect the probable intent of Congress.

<sup>2</sup> So in original. Two sections 435 have been enacted and appear in a different order in this chapter.

1998—Pub. L. 105-261, div. A, title VI, § 633(b)(2), Oct. 17, 1998, 112 Stat. 2044, substituted “rest and recuperative leave from certain stations” for “leave from certain stations” in item 411c.

1997—Pub. L. 105-85, div. A, title VI, § 603(c)(4), Nov. 18, 1997, 111 Stat. 1782, substituted “housing” for “quarters” in item 403 and struck out item 403a “Variable housing allowance”.

1994—Pub. L. 103-337, div. A, title VI, § 602(a)(2), Oct. 5, 1994, 108 Stat. 2781, added item 403b.

1992—Pub. L. 102-484, div. A, title VI, § 623(a)(2), Oct. 23, 1992, 106 Stat. 2423, added item 434.

1990—Pub. L. 101-510, div. A, title V, § 504(a)(1), title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1559, 1717, revised chapter heading so as to appear in all capital letters and renumbered Pub. L. 95-561, § 1407(c)(1)(B). See 1978 Amendment note below.

1989—Pub. L. 101-189, div. A, title V, § 502(b)(2), title VI, § 624(a)(2), Nov. 29, 1989, 103 Stat. 1437, 1448, added items 406c and 433.

1987—Pub. L. 100-180, div. A, title VI, §§ 611(a)(2), 614(a)(2), (d)(3), 615(a)(2), title XIII, § 1314(c)(2), Dec. 4, 1987, 101 Stat. 1093-1096, 1176, substituted “leave between consecutive overseas tours” for “certain leave” in item 411b, added items 411g and 411h, inserted “and Vice Chairman” in item 413, added item 419, and redesignated former items 419 and 420 as 420 and 421, respectively.

Pub. L. 100-26, § 8(b)(1), Apr. 21, 1987, 101 Stat. 285, redesignated item 431 “Travel and transportation: members escorting certain dependents” as item 432.

1986—Pub. L. 99-661, div. A, title VI, § 615(a)(2), Nov. 14, 1986, 100 Stat. 3880, added item 431 “Travel and transportation: members escorting certain dependents”.

1985—Pub. L. 99-145, title VI, §§ 616(c)(2), 620(a)(2), title XIII, §§ 1302(b)(2), 1303(b)(7), Nov. 8, 1985, 99 Stat. 641, 643, 738, 740, substituted “allowances:” for “allowances;” in item 404 and “departure” for “evacuation” in item 405a, struck out “away from home port” after “inactivating” in item 406b, added item 411f, substituted “allowances” for “allowance” in item 425, and added item 431 “Benefits for certain members assigned to the Defense Intelligence Agency”.

1984—Pub. L. 98-525, title VI, § 602(d)(2), 612(a)(2), Oct. 19, 1984, 98 Stat. 2536, 2539, struck out “; variable housing allowance” after “Basic allowance for quarters” in item 403, and added item 403a, and substituted “personal emergencies for certain members and dependents” for “certain emergencies for members performing temporary duty” in item 411d.

1983—Pub. L. 98-94, title IX, §§ 910(a)(2), 932(e)(2), Sept. 24, 1983, 97 Stat. 639, 650, struck out item 421 “Contract surgeons” and added item 430.

1981—Pub. L. 97-60, title I, §§ 122(a)(2), 126(b), Oct. 14, 1981, 95 Stat. 1003, 1005, added items 404a, 411c, 411d, and 411e.

Pub. L. 97-22, § 11(b)(3)(B), July 10, 1981, 95 Stat. 138, substituted “uniformed services” for “Uniformed Services” in item 406b.

1980—Pub. L. 96-343, § 4(a)(3), Sept. 8, 1980, 94 Stat. 1125, substituted “for quarters; variable housing allowance” for “for quarters” in item 403.

Pub. L. 96-342, title VIII, § 808(a)(2), Sept. 8, 1980, 94 Stat. 1097, substituted “house trailers and mobile homes” for “trailers” in item 409.

1978—Pub. L. 95-561, title XIV, § 1407(d)(1)(B), formerly § 1407(c)(1)(B), Nov. 1, 1978, 92 Stat. 2367, as renumbered by Pub. L. 101-510, div. A, title V, § 504(a)(1), Nov. 5, 1990, 104 Stat. 1559, added item 429.

1973—Pub. L. 93-213, § 1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93-170, § 1(2), Nov. 29, 1973, 87 Stat. 689, substituted “overhauling or inactivating” for “overhauling” in item 406b.

1971—Pub. L. 92-129, title II, § 205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91-210, § 1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90-377, § 9, July 5, 1968, 82 Stat. 288, struck out item 426 “Prisoners in naval confinement facilities”.

1967—Pub. L. 90-207, § 9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89-26, § 1(2), May 22, 1965, 79 Stat. 117, inserted item 405a.

1964—Pub. L. 88-647, title II, § 202(6), Oct. 13, 1964, 78 Stat. 1071, substituted “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates” in item 422.

1963—Pub. L. 88-238, § 1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88-132, § 11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 907 of this title; title 10 sections 1051, 12503; title 32 section 115; title 42 section 659.

### § 401. Definitions

(a) **DEPENDENT DEFINED.**—In this chapter, the term “dependent”, with respect to a member of a uniformed service, means the following persons:

- (1) The spouse of the member.
- (2) An unmarried child of the member who—
  - (A) is under 21 years of age;
  - (B) is incapable of self-support because of mental or physical incapacity and is in fact dependent on the member for more than one-half of the child’s support; or
  - (C) is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education approved by the Secretary concerned for purposes of this subparagraph, and is in fact dependent on the member for more than one-half of the child’s support.
- (3) A parent of the member if—
  - (A) the parent is in fact dependent on the member for more than one-half of the parent’s support;
  - (B) the parent has been so dependent for a period prescribed by the Secretary concerned or became so dependent due to a change of circumstances arising after the member entered on active duty; and
  - (C) the dependency of the parent on the member is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary concerned.
- (4) An unmarried person who—
  - (A) is placed in the legal custody of the member as a result of an order of a court of competent jurisdiction in the United States (or Puerto Rico or a possession of the United States) for a period of at least 12 consecutive months;
  - (B) either—
    - (i) has not attained the age of 21;
    - (ii) has not attained the age of 23 years and is enrolled in a full time course of study at an institution of higher learning approved by the Secretary concerned; or
    - (iii) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former mem-

ber under this paragraph pursuant to clause (i) or (ii);

(C) is dependent on the member for over one-half of the person’s support;

(D) resides with the member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the Secretary concerned may by regulation prescribe; and

(E) is not a dependent of a member under any other paragraph.

(b) **OTHER DEFINITIONS.**—For purposes of subsection (a):

(1) The term “child” includes—

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild’s parent by blood);

(B) an adopted child of the member, including a child placed in the home of the member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

(C) an illegitimate child of the member if the member’s parentage of the child is established in accordance with criteria prescribed in regulations by the Secretary concerned.

(2) The term “parent” means—

(A) a natural parent of the member;

(B) a stepparent of the member;

(C) a parent of the member by adoption;

(D) a parent, stepparent, or adopted parent of the spouse of the member; and

(E) any other person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93-64, title I, §§ 103, 104, July 9, 1973, 87 Stat. 148; Pub. L. 100-26, § 8(e)(7), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-190, div. A, title VI, § 621, Dec. 5, 1991, 105 Stat. 1377; Pub. L. 103-160, div. A, title VI, § 631(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 103-337, div. A, title VII, § 701(b), Oct. 5, 1994, 108 Stat. 2797.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
401 .....	37:231(g) (less last proviso of last sentence).	Oct. 12, 1949, ch. 681, § 102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, § 1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to § 102(g)), 67 Stat. 6; June 30, 1955, ch. 250, § 103 (as applicable to § 102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86-4, § 3 (as applicable to § 102(g)), 73 Stat. 13.

The words “lawful”, “at all times and in all places”, “except as hereinafter limited in this subsection”, and “in addition to those persons otherwise defined as dependents in this subsection” are omitted as surplusage. In clause (1), the word “spouse” is substituted for words “wife” and “husband”. Clause (2) is substituted for the

16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

#### AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103-337 substituted “placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member” for “placement agency for the purpose of adoption”.

1993—Subsec. (a)(4). Pub. L. 103-160 added par. (4).

1991—Pub. L. 102-190 amended text generally. Prior to amendment, text read as follows: “In this chapter, the term ‘dependent’, with respect to a member of a uniformed service, means—

“(1) his spouse;

“(2) his unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child’s support, or whose parentage has been admitted in writing by the member) who either—

“(A) is under 21 years of age; or

“(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

“(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

“(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

“(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent’s divorce from the parent by blood.”

1987—Pub. L. 100-26 inserted “the term” after “In this chapter.”

1973—Cl. (2). Pub. L. 93-64, §103(1), in revising cl. (1) of first sentence, substituted “unmarried child” for “unmarried legitimate child” and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child’s support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93-64, §104, in revising cl. (3) of first sentence, substituted “five years before the member became 21 years” for “five years before he became 21 years”, struck out requirement of actual residence of parent in the member’s household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93-64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that

a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 631(b) of Pub. L. 103-160 provided that: “Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.”

#### EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93-64 provided that: “This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403b, 411f of this title; title 10 section 2002; title 31 section 3342.

### § 402. Basic allowance for subsistence

(a) ENTITLEMENT TO ALLOWANCE.—(1) Except as provided in paragraph (2) or otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(2) An enlisted member is not entitled to the basic allowance for subsistence during basic training.

(b) RATES OF ALLOWANCE BASED ON FOOD COSTS.—(1) The monthly rate of basic allowance for subsistence to be in effect for an enlisted member for a year (beginning on January 1 of that year) shall be the amount that is halfway between the following amounts, which are determined by the Secretary of Agriculture as of October 1 of the preceding year:

(A) The amount equal to the monthly cost of a moderate-cost food plan for a male in the United States who is between 20 and 50 years of age.

(B) The amount equal to the monthly cost of a liberal food plan for a male in the United States who is between 20 and 50 years of age.

(2) The monthly rate of basic allowance for subsistence to be in effect for an officer for a year (beginning on January 1 of that year) shall be the amount equal to the monthly rate of basic allowance for subsistence in effect for officers for the preceding year, increased by the same percentage by which the rate of basic allowance for subsistence for enlisted members for the preceding year is increased effective on such January 1.

(c) ADVANCE PAYMENT.—The allowance to an enlisted member may be paid in advance for a period of not more than three months.

(d) SPECIAL RULE FOR MEMBERS AUTHORIZED TO MESS SEPARATELY.—(1) In areas prescribed by the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member described in paragraph (2) is entitled to not more than the pro rata allowance established under subsection (b)(1) for each meal the member buys from a source other than a messing facility of the United States.

(2) An enlisted member referred to in paragraph (1) is a member who is granted permission to mess separately and whose duties require the member to buy at least one meal from a source other than a messing facility of the United States.

(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(f) POLICIES ON USE OF DINING AND MESSING FACILITIES.—The Secretary of Defense, in consultation with the Secretaries concerned, shall prescribe policies regarding use of dining and field messing facilities of the uniformed services.

(g) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section. Before prescribing the regulations, the Secretary shall consult with each Secretary concerned.

(2) The regulations shall include the specific rates of basic allowance for subsistence required by subsection (b).

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89-444, §2(2), June 9, 1966, 80 Stat. 198; Pub. L. 93-419, §3(1)-(5), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-513, title IV, §411, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 98-94, title IX, §908(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §605, Oct. 19, 1984, 98 Stat. 2537; Pub. L. 98-557, §17(d), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99-145, title XIII, §1303(b)(5), Nov. 8, 1985, 99 Stat. 740; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, §602(a)-(c)(1), Feb. 10, 1996, 110 Stat. 356, 357; Pub. L. 105-85, div. A, title VI, §602(a), Nov. 18, 1997, 111 Stat. 1771; Pub. L. 105-261, div. A, title VI, §604(a), Oct. 17, 1998, 112 Stat. 2037.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
402(a) .....	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, §301, 63 Stat. 812; May 19, 1952, ch. 310, §1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, §20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, §10, 72 Stat. 1556.
402(b) .....	37:251(a) (2d and last sentences).	
	37:251(b).	
	37:251(c).	
	37:251a.	Aug. 1, 1953, ch. 305, §617, 67 Stat. 352.
	37:301(a) (45 words before proviso).	Oct. 12, 1949, ch. 681, §501(a) (45 words before proviso).
	37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, §244, 66 Stat. 494; June 30, 1960, Pub. L. 86-559, §8, 74 Stat. 282.
402(c) .....	37:251(a) (less 1st, 2d, and last sentences).	
402(d) .....	37:251(e).	
402(e) .....	37:251(f).	
402(f) .....	37:251(d).	

In subsection (a), the words “in the amount set forth in subsection (d)” are substituted for the words “in such amounts . . . as are provided in this section”.

In subsection (b), the words “on a daily basis” are substituted for the last sentence of section 251(a) of existing title 37. The words “United States” are substituted for the word “Government”, in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word “confined” is substituted for the word “sick” for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words “of a reserve component of a uniformed service, or of the National Guard” are substituted for the enumeration of the organizations concerned.

In subsection (c), the words “who are entitled to basic pay” are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of \$1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words “Effective April 15, 1955,” are omitted as executed. The words “United States” are substituted for the word “Government”. The words “messing facilities” are substituted for the word “messes” to conform to subsections (b) and (d).

## AMENDMENTS

1998—Subsecs. (e) to (g). Pub. L. 105-261 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to basic allowance for subsistence for members of the uniformed services.

1996—Subsec. (b). Pub. L. 104-106, §602(a), (b), designated first sentence as par. (1), redesignated former pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of par. (1), designated second to fourth sentences as par. (2), designated fifth and sixth sentences as par. (3), and added par. (4).

Subsec. (e)(1). Pub. L. 104-106, §602(c)(1)(A), substituted “subsection (b)(2)” for “the third sentence of subsection (b)”.

Subsec. (e)(2). Pub. L. 104-106, §602(c)(1)(B), substituted “subsection (b)(2)” for “subsection (b)”.

1991—Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99-145 inserted “or as otherwise prescribed by law” after “title” at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98-525 inserted “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”

Subsec. (d). Pub. L. 98-557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98-94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96-513, §411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96-513, §411(b), inserted reference to definitions of “field duty” and “sea duty”.

1974—Subsec. (a). Pub. L. 93-419, §3(1), struck out “this section or by another” after “otherwise provided by” and substituted “as set forth in this section” for “in the amount set forth in subsection (d) of this section”.

Subsec. (b). Pub. L. 93-419, §3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, §3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93-419, §3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 602(g) of Pub. L. 105-85 provided that: "This section [amending this section, section 404 of this title, and section 6081 of Title 10, Armed Forces, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on January 1, 1998."

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 605 of Pub. L. 98-525 provided that the amendment made by that section is effective Oct. 1, 1984.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

#### TRANSITIONAL AUTHORITY TO PROVIDE BASIC ALLOWANCE FOR SUBSISTENCE

Section 602(c)-(f) of Pub. L. 105-85, as amended by Pub. L. 105-261, div. A, title VI, §604(b), Oct. 17, 1998, 112 Stat. 2038, provided that:

"(c) TRANSITIONAL AUTHORITY TO PROVIDE BASIC ALLOWANCE FOR SUBSISTENCE.—

"(1) TRANSITIONAL AUTHORITY.—Notwithstanding section 402 of title 37, United States Code, as amended by subsection (a), during the period beginning on January 1, 1998, and ending on the date determined under paragraph (2)–

"(A) the basic allowance for subsistence shall not be paid under such section 402;

"(B) a member of the uniformed services is entitled to the basic allowance for subsistence only as provided in subsection (d);

"(C) an enlisted member of the uniformed services may be paid a partial basic allowance for subsistence as provided in subsection (e); and

"(D) the rates of the basic allowance for subsistence are those rates determined under subsection (f).

"(2) TERMINATION OF TRANSITIONAL AUTHORITY.—The transitional authority provided under paragraph (1) shall terminate on the first day of the month immediately following the first month for which the monthly equivalent of the rate of basic allowance for subsistence payable to enlisted members of the uniformed services (when permission to mess separately is granted), as determined under subsection (f)(2), is equal to or is exceeded by the amount that, except for paragraph (1)(A), would otherwise be the monthly

rate of basic allowance for subsistence for enlisted members under section 402(b)(1) of title 37, United States Code, as amended by subsection (a).

"(d) TRANSITIONAL ENTITLEMENT TO ALLOWANCE.—

"(1) ENLISTED MEMBERS.—

"(A) TYPES OF ENTITLEMENT.—An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of [sic] under one or more of the following circumstances:

"(i) When rations in kind are not available.

"(ii) When permission to mess separately is granted.

"(iii) When assigned to duty under emergency conditions where no messing facilities of the United States are available.

"(B) OTHER ENTITLEMENT CIRCUMSTANCES.—An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from the member's designated post of duty other than field duty or sea duty (as defined in regulations prescribed by the Secretary of Defense). For purposes of the preceding sentence, a member shall not be considered to be performing travel under orders away from his designated post of duty if such member—

"(i) is an enlisted member serving the member's first tour of active duty;

"(ii) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

"(iii) is not actually traveling between stations pursuant to orders directing a change of station.

"(C) ADVANCE PAYMENT.—The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months.

"(D) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of title 37, United States Code, an enlisted member of a reserve component (as defined in section 101(24) of such title) may receive, at the discretion of the Secretary concerned (as defined in section 101(5) of such title), rations in kind, or a part thereof, when the member's instruction or duty periods (as described in section 206(a) of such title) total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

"(2) OFFICERS.—An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence. An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, Marine Corps, or Coast Guard, respectively.

"(e) TRANSITIONAL AUTHORITY FOR PARTIAL ALLOWANCE.—

"(1) ENLISTED MEMBERS FURNISHED SUBSISTENCE IN KIND.—The Secretary of Defense may provide in regulations for an enlisted member of a uniformed service to be paid a partial basic allowance for subsistence when—

"(A) rations in kind are available to the member;

"(B) the member is not granted permission to mess separately; or

"(C) the member is assigned to duty under emergency conditions where messing facilities of the United States are available.

"(2) MONTHLY PAYMENT.—Any partial basic allowance for subsistence authorized under paragraph (1) shall be calculated on a daily basis and paid on a monthly basis.

"(f) TRANSITIONAL RATES.—

"(1) ALLOWANCE FOR OFFICERS.—The monthly rate of basic allowance for subsistence for a year (beginning on January 1 of that year) that is payable to officers of the uniformed services shall be the amount

that is equal to 101 percent of the rate of basic allowance for subsistence that was payable to officers of the uniformed services for the preceding year.

“(2) ALLOWANCE FOR ENLISTED MEMBER WITH PERMISSION TO MESS SEPARATELY.—The monthly rate of basic allowance for subsistence for a year (beginning on January 1 of that year) that is payable to an enlisted member of the uniformed services entitled to the allowance under subsection (d)(1) shall be the amount that is equal to 101 percent of the rate of basic allowance for subsistence that was in effect for similarly situated enlisted members of the uniformed services for the preceding year.

“(3) PARTIAL ALLOWANCE FOR OTHER ENLISTED MEMBERS.—The monthly rate of any partial basic allowance for subsistence for a year (beginning on January 1 of that year) payable to an enlisted member of the uniformed services eligible for the allowance under the regulations prescribed under subsection (e)(1) shall be the amount equal to the lesser of the following:

“(A) The sum of—

“(i) the partial basic allowance for subsistence in effect for the preceding year; and

“(ii) the amount equal to the difference, if any, between—

“(I) the monthly equivalent of the rate of basic allowance for subsistence that was in effect for the preceding year for members of the uniformed services above grade E-1 (when permission to mess separately is granted), increased by the same percentage by which the rates of basic pay for members of the uniformed services is increased for the current year; and

“(II) the amount equal to 101 percent of the monthly equivalent of the rate of basic allowance for subsistence that was in effect for the previous year for members of the uniformed services above grade E-1 (when permission to mess separately is granted),

with the amount so determined under this clause multiplied by the number of members estimated to be entitled to receive basic allowance for subsistence under subsection (d) for the current year and then divided by the number of members estimated to be eligible for the partial allowance under the regulations prescribed under subsection (e)(1) for that year.

“(B) The amount equal to the difference between—

“(i) the amount that, except for subsection (c)(1)(A), would otherwise be the monthly rate of basic allowance for subsistence for enlisted members under section 402(b)(1) of title 37, United States Code; and

“(ii) the amount equal to the monthly equivalent of the value of a daily ration, as determined by the Under Secretary of Defense (Comptroller) as of October 1 of the preceding year.”

#### INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96-343, § 7, Sept. 8, 1980, 94 Stat. 1128, provided that: “Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.”

#### REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

#### EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§ 5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R.

2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Aviation cadets, allowances, pensions, gratuities, and other benefits, see section 6912 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 420, 1003, 1009, 1012 of this title; title 10 sections 708, 6912; title 14 section 372; title 32 section 107.

### § 403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area.

(2) Subject to paragraph (3), the monthly amount of a basic allowance for housing for an area of the United States for a member of a uniformed service is equal to the difference between—

(A) the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

(B) 15 percent of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.

(3) The rates of basic allowance for housing shall be reduced as necessary to comply with this paragraph. The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection is the product of—

(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (5)); and

(B) a fraction—

(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

(ii) the denominator of which is the index of the national average monthly cost of housing for June of the fiscal year before the preceding fiscal year.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary's redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) In making a determination under paragraph (3) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the basic allowance for housing shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, geographic distribution in the United States, and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding fiscal year.

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing within an area of the United States, the monthly amount of the allowance for the member may not be reduced as a result of changes in housing costs in the area, changes in the national average monthly cost of housing, or the promotion of the member.

(7) In the case of a member without dependents who is assigned to duty inside the United States, the location or the circumstances of which make it necessary that the member be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(c) BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense may prescribe an overseas basic allowance for housing for a member of a uniformed service who is on duty outside of the United States. The Secretary shall establish the basic allowance for housing under this subsection on the basis of housing costs in the overseas area in which the member is assigned.

(2) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing in an overseas area and the actual monthly cost of housing for the member is not reduced, the monthly amount of the allowance in an area outside the United States may not be reduced as a result of changes in housing costs in the area or the promotion of the member. The monthly amount of the allowance may be adjusted to reflect changes in currency rates.

(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

(i) incurred by the member in occupying private housing outside of the United States; and

(ii) authorized or approved under regulations prescribed by the Secretary concerned.

(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.

(d) BASIC ALLOWANCE FOR HOUSING WHEN DEPENDENTS ARE UNABLE TO ACCOMPANY MEMBER.—(1) A member of a uniformed service with dependents who is on permanent duty at a location described in paragraph (2) is entitled to a family separation basic allowance for housing under this subsection at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to that location, for members in the same grade at that location without dependents.

(2) A permanent duty location referred to in paragraph (1) is a location—

(A) to which the movement of the member's dependents is not authorized at the expense of the United States under section 406 of this title, and the member's dependents do not reside at or near the location; and

(B) at which quarters of the United States are not available for assignment to the member.

(3) In the case of a member with dependents who is assigned to duty at a location or under circumstances that, as determined by the Secretary concerned, require the member's dependents to reside at a different location, the member shall receive a basic allowance for housing, as provided in subsection (a) or (b), as if the member were assigned to duty in the area in which the dependents reside, regardless of whether the member resides in quarters of the United States or is also entitled to a family separation basic allowance for housing by reason of paragraph (1).

(4) The family separation basic allowance for housing under this subsection shall be in addition to any other allowance or per diem that the member is otherwise entitled to receive under this title. A member may receive a basic allowance for housing under both paragraphs (1) and (3).

(e) EFFECT OF ASSIGNMENT TO QUARTERS.—(1) Except as otherwise provided by law, a member of a uniformed service who is assigned to quar-



ters of the United States or a housing facility under the jurisdiction of a uniformed service appropriate to the grade, rank, or rating of the member and adequate for the member and dependents of the member, if with dependents, is not entitled to a basic allowance for housing.

(2) A member without dependents who is in a pay grade above pay grade E-6 and who is assigned to quarters in the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to the grade or rank of the member and adequate for the member, may elect not to occupy those quarters and instead to receive the basic allowance for housing prescribed for the member's pay grade by this section.

(3) A member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Secretary of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for housing prescribed for the member's pay grade under this section.

(4) The Secretary concerned may deny the right to make an election under paragraph (2) or (3) if the Secretary determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(5) A member with dependents who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may be paid the basic allowance for housing if, because of orders of competent authority, the dependents are prevented from occupying those quarters.

(f) INELIGIBILITY DURING INITIAL FIELD DUTY OR SEA DUTY.—(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for housing while on that initial field duty unless the commanding officer of the member certifies that the member was necessarily required to procure quarters at the member's expense.

(2)(A) Except as provided in subparagraphs (B) and (C), a member of a uniformed service without dependents who is in a pay grade below pay grade E-6 is not entitled to a basic allowance for housing while the member is on sea duty.

(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for housing to a member of a uniformed service without dependents who is serving in pay grade E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E-5.

(C) Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one basic allowance for housing dur-

ing the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for housing under subparagraph (B).

(3) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall prescribe regulation<sup>1</sup> defining the terms "field duty" and "sea duty" for purposes of this section.

(g) RESERVE MEMBERS.—(1) A member of a reserve component without dependents who is called or ordered to active duty in support of a contingency operation, or a retired member without dependents who is ordered to active duty under section 688(a) of title 10 in support of a contingency operation, may not be denied a basic allowance for housing if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(2) Paragraph (1) shall not apply if the member is authorized transportation of household goods under section 406 of this title as part of the call or order to active duty described in such paragraph.

(3) The Secretary of Defense shall establish a rate of basic allowance for housing to be paid to a member of a reserve component while the member serves on active duty under a call or order to active duty specifying a period of less than 140 days, unless the call or order to active duty is in support of a contingency operation.

(h) RENTAL OF PUBLIC QUARTERS.—Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and the dependents of the member, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to an occupancy without charge by such a member and the dependents of the member, if any. Such a member may not, because of occupancy under this subsection, be deprived of any money allowance to which the member is otherwise entitled for the rental of quarters.

(i) TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.—A member of a uniformed service who is in a pay grade E-4 (4 or more years of service) or above is entitled to a temporary basic allowance for housing (at a rate

<sup>1</sup> So in original. Probably should be "regulations".

determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

(j) AVIATION CADETS.—The eligibility of an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard for a basic allowance for housing shall be determined as if the aviation cadet were a member of the uniformed services in pay grade E-4.

(k) ADMINISTRATION.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2) The Secretary concerned may make such determinations as may be necessary to administer this section, including determinations of dependency and relationship. When warranted by the circumstances, the Secretary concerned may reconsider and change or modify any such determination. The authority of the Secretary concerned under this subsection may be delegated. Any determination made under this section with regard to a member of the uniformed services is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(3) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fees established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(l) TEMPORARY CONTINUATION OF ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY.—(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies on active duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 180 days.

(2) The Secretary concerned may pay a basic allowance for housing (at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing) to the dependents of a member of the uniformed services who dies while on active duty and whose dependents—

(A) are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death;

(B) are occupying such housing on a rental basis on such date; or

(C) vacate such housing sooner than 180 days after the date of the member's death.

(3) The payment of the allowance under paragraph (2) shall terminate 180 days after the date of the member's death.

(m) MEMBERS PAYING CHILD SUPPORT.—(1) A member of a uniformed service with dependents may not be paid a basic allowance for housing at the with dependents rate solely by reason of the payment of child support by the member if—

(A) the member is assigned to a housing facility under the jurisdiction of a uniformed service; or

(B) the member is assigned to sea duty, and elects not to occupy assigned quarters for unaccompanied personnel, unless the member is in a pay grade above E-4.

(2) A member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who is not otherwise authorized a basic allowance for housing and who pays child support is entitled to the basic allowance for housing differential, except for months for which the amount payable for the child support is less than the rate of the differential. Payment of a basic allowance for housing differential does not affect any entitlement of the member to a partial allowance for quarters under subsection (n).

(3) The basic allowance for housing differential to which a member is entitled under paragraph (2) is the amount equal to the difference between—

(A) the rate of the basic allowance for quarters (with dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date); and

(B) the rate of the basic allowance for quarters (without dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date).

(4) Whenever the rates of basic pay for members of the uniformed services are increased, the monthly amount of the basic allowance for housing differential computed under paragraph (3) shall be increased by the average percentage increase in the rates of basic pay. The effective date of the increase shall be the same date as the effective date of the increase in the rates of basic pay.

(5) In the case of two members, who have one or more common dependents (and no others), who are not married to each other, and one of whom pays child support to the other, the amount of the basic allowance for housing paid to each member under this section shall be reduced in accordance with regulations prescribed by the Secretary of Defense. The total amount of the basic allowances for housing paid to the two members may not exceed the sum of the amounts of the allowance to which each member would be otherwise entitled under this section.

(n) PARTIAL ALLOWANCE FOR MEMBERS WITHOUT DEPENDENTS.—(1) A member of a uniformed service without dependents who is not entitled to receive a basic allowance for housing under subsection (b), (c), or (d) is entitled to a partial basic allowance for housing at a rate determined by the Secretary of Defense under paragraph (2).

(2) The rate of the partial basic allowance for housing is the partial rate of the basic allowance for quarters for the member's pay grade as such partial rate was in effect on December 31, 1997, under section 1009(c)(2) of this title (as such section was in effect on such date).

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88-132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89-718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90-207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92-129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93-64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93-419, §3(6), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96-513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §§6(a)-(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99-145, title VI, §§604(a), 605(a), title VIII, §809(b), title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99-227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100-26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103-337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104-106, div. A, title VI, §§603(a), 604(a), Feb. 10, 1996, 110 Stat. 357, 358; Pub. L. 104-201, div. A, title VI, §§604(a)-(c), 605, Sept. 23, 1996, 110 Stat. 2540, 2541; Pub. L. 105-85, div. A, title VI, §603(a), Nov. 18, 1997, 111 Stat. 1775; Pub. L. 105-261, div. A, title VI, §603(a), Oct. 17, 1998, 112 Stat. 2037.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
403(a) .....	37:252(a), 37:252(f).	Oct. 12, 1949, ch. 681, §302(a)-(f), 63 Stat. 812; May 19, 1952, ch. 310, §1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85-422, §1(9), 72 Stat. 127.
403(b) .....	37:252(b).	
403(c) .....	37:252(c).	
403(d) .....	37:252(d).	
403(e) .....	37:111a.	July 2, 1945, ch. 227, 59 Stat. 316.
403(f) .....	37:320.	June 29, 1950, ch. 405, §102, 64 Stat. 288.
403(g) .....	37:252(e).	

In subsection (a), the words "at the following monthly rates" are substituted for the words "in such amount and under such circumstances as are provided in this section". Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words "United States" are substituted for the word "Government".

In subsection (c), the words "a period" are substituted for the words "temporary periods".

In subsection (e), the words "member" and "members" are substituted for the word "personnel".

In subsection (f), the words "may be used" are substituted for the words "shall be available". The words "for any periods after June 29, 1950," are omitted as executed. The words "(as defined in sections 231(g) and 252 of this title)" are omitted as covered by section 401 of this revised title.

In subsection (g), the word "including" is substituted for the words "and such regulations shall include, but not be limited to".

## AMENDMENTS

1998—Subsec. (c)(3). Pub. L. 105-261 added par. (3).

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (m) relating to basic allowances for quarters.

1996—Subsec. (b). Pub. L. 104-106, §603(a), designated first sentence as par. (1), designated second sentence as par. (2) and substituted "Subject" for "However, subject", and added par. (3).

Subsec. (b)(3). Pub. L. 104-201, §605, substituted "Subject to the provisions of subsection (j), a member" for "A member".

Subsec. (c)(2). Pub. L. 104-201, §604(a)-(c), designated first sentence as subpar. (A) and substituted "Except as provided in subparagraphs (B) and (C), a member" for "A member", added subpars. (B) and (C), and struck out former second sentence which read as follows: "A member of a uniformed service without dependents who is in a pay grade above E-5 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting."

Pub. L. 104-106, §604(a), substituted "E-6" for "E-7" in first sentence and "E-5" for "E-6" in second sentence.

1994—Subsec. (l). Pub. L. 103-337 substituted "180 days" for "90 days" wherever appearing.

1991—Subsec. (a). Pub. L. 102-190, §604(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (j)".

Subsec. (d). Pub. L. 102-190, §632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102-190, §604(a)(2), substituted "Secretary of Defense shall" for "President may".

Subsec. (j)(2). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (b)".

Subsec. (m). Pub. L. 102-190, §602(a), added subsec. (m).

1987—Subsec. (l)(1). Pub. L. 100-26 substituted "armed forces" for "Armed Forces".

1985—Subsec. (a). Pub. L. 99-145, §1303(b)(6), inserted "or as otherwise prescribed by law" after "of this title".

Pub. L. 99-145, §604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99-145, §605(a)(1), substituted "who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty" for "is not entitled to a basic allowance for quarters while he is on field duty".

Subsec. (c)(2). Pub. L. 99-145, §605(a)(2), substituted "who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting" for "and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days".

Subsec. (c)(3). Pub. L. 99-145, §605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99-145, §809(b), substituted "25-year period" for "15-year period".

Subsec. (l). Pub. L. 99-227 added subsec. (l).

1984—Pub. L. 98-525, §602(c)(2), struck out "variable housing allowance" in section catchline.

Subsec. (a). Pub. L. 98-525, §602(c)(1), struck out designation for par. (1) preceding "Except as otherwise provided by law" and struck out par. (2) which related to variable housing allowances.

Subsec. (j)(2). Pub. L. 98-525, §604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98-94 substituted “Except as provided in subparagraph (D) of this paragraph, a member” for “A member” at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97-22 substituted “pay grade E-6” for “pay grade F-6”.

1980—Pub. L. 96-343, §4(a)(2), substituted “for quarters; variable housing allowance” for “for quarters” in section catchline.

Subsec. (a). Pub. L. 96-343, §4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96-579, §6(a)(1), (2), substituted in second sentence “subject to the provisions of subsection (j)” for “except as provided by regulations prescribed under subsection (j)”, “member” for “commissioned officer”, and “F-6” for “C-3”. Because “C-3” did not appear in this subsection, “F-6” was substituted for “O-3” as the probable intent of Congress.

Subsec. (c). Pub. L. 96-579, §6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E-7 or above E-6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96-513, §516(10)(A), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Subsec. (j). Pub. L. 96-579, §6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96-513, §516(10)(B), substituted “terms” for “words”.

Subsec. (k). Pub. L. 96-579, §7, added subsec. (k).

1974—Subsec. (a). Pub. L. 93-419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93-64, §105(1), (2), substituted in table provisions reading:

“E-4 .....	\$81.60	\$121.50
E-3 .....	72.30	105.00
E-2 .....	63.90	105.00
E-1 .....	60.00	105.00”
for former provisions reading:		
“E-4 (over 4 years’ service) .....	81.60	121.50
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

and struck out “A member in pay grade E-4 (less than four years’ service), E-3, E-2, or E-1 is considered at all times to be without dependents.”

Subsec. (b). Pub. L. 93-64, §105(3), in second sentence substituted reference to subsection “(j)” for “(g)”.

Subsecs. (g) to (j). Pub. L. 93-64, §105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$160.20	\$201.00
O-9 .....	160.20	201.00
O-8 .....	160.20	201.00
O-7 .....	160.20	201.00
O-6 .....	140.10	170.10
O-5 .....	130.20	157.50
O-4 .....	120.00	145.05
O-3 .....	105.00	130.05
O-2 .....	95.10	120.00
O-1 .....	85.20	110.10
W-4 .....	120.00	145.05
W-3 .....	105.00	130.05
W-2 .....	95.10	120.00
W-1 .....	85.20	110.10
E-9 .....	85.20	120.00
E-8 .....	85.20	120.00
E-7 .....	75.00	114.90
E-6 .....	70.20	110.10

“Pay grade	Without dependents	With dependents
E-5 .....	70.20	105.00
E-4 (over 4 years’ service) .....	70.20	105.00
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years’ service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$171.00	\$136.80
O-9 .....	171.00	136.80
O-8 .....	171.00	136.80
O-7 .....	171.00	136.80
O-6 .....	136.80	119.70
O-5 .....	136.80	102.60
O-4 .....	119.70	94.20
O-3 .....	102.60	85.50
O-2 .....	94.20	77.10
O-1 .....	85.50	68.40
W-4 .....	119.70	94.20
W-3 .....	102.60	85.50
W-2 .....	94.20	77.10
W-1 .....	85.50	68.40
E-9 .....	67.50	45.00
E-8 .....	67.50	45.00
E-7 .....	67.50	45.00
E-6 .....	67.50	45.00
E-5 .....	67.50	45.00
E-4 (7 or more years’ service creditable under section 205) .....	67.50	45.00
E-4 (less than 7 years’ service creditable under section 205) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

Subsec. (e). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, §603(c), Oct. 17, 1998, 112 Stat. 2037, provided that: “The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Section 604(e) of Pub. L. 104-201 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on July 1, 1997.”

Section 603(b) of Pub. L. 104-106 provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

Section 604(b) of Pub. L. 104-106 provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

## EFFECTIVE DATE OF 1994 AMENDMENT

Section 604(c) of Pub. L. 103-337 provided that: "The amendments made by this section [amending this section] shall take effect as of October 1, 1993."

## EFFECTIVE DATE OF 1991 AMENDMENT

Section 604(c) of Pub. L. 102-190 provided that: "The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991]."

Section 632(b) of Pub. L. 102-190 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date."

## EFFECTIVE DATE OF 1985 AMENDMENTS

Section 2 of Pub. L. 99-227 provided that: "The amendments made by section 1 of this Act [amending this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date."

Section 604(c) of Pub. L. 99-145 provided that: "The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985."

Section 605(b) of Pub. L. 99-145 provided that:

"(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

"(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986."

Amendment by section 809(b) of Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 602(f) of Pub. L. 98-525, as amended by Pub. L. 99-145, title VI, §603(b), Nov. 8, 1985, 99 Stat. 637; Pub. L. 99-661, div. A, title XIII, §1342(b), Nov. 14, 1986, 100 Stat. 3991, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 403a of this title, amending this section, section 405 of this title, section 7572 of Title 10, Armed Forces, and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1985.

"(2)(A) A member shall be entitled to receive a station housing allowance under section 405 of title 37, United States Code, as if the amendments made by subsection (e) [amending section 405 of this title] had not been enacted, if the member, on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985]—

"(i) is assigned to a permanent duty station in Alaska or Hawaii; and

"(ii) is entitled to payment of a temporary lodging allowance or a station housing allowance under section 405 of this title.

"(B) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall only be entitled to such allowance until the earlier of—

"(i) the date on which the member changes residence in conjunction with a permanent change of duty station; or

"(ii) the expiration of the four-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985].

"(C) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall not be

entitled to a variable housing allowance, except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.

"(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984."

[Amendment of this note by Pub. L. 99-661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99-661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

Section 604(b) of Pub. L. 98-525 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984."

## EFFECTIVE DATE OF 1983 AMENDMENT

Section 907(b) of Pub. L. 98-94 provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to members called or ordered to active duty after September 30, 1983."

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 11(b)(2) of Pub. L. 97-22 provided that the amendment made by that section is effective Oct. 1, 1980.

## EFFECTIVE DATE OF 1980 AMENDMENTS

Section 6(d) of Pub. L. 96-579 provided that: "The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980."

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Section 4(b) of Pub. L. 96-343 provided that: "Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981."

## EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

## EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

## EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

## EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of this title.

## TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## TRANSITION TO BASIC ALLOWANCE FOR HOUSING

Section 603(b) of Pub. L. 105-85 provided that: "The Secretary of Defense shall develop and implement a plan to incrementally manage the rate of growth of the various components of the basic allowance for housing authorized by section 403 of title 37, United States Code (as amended by subsection (a)), during a transition period of not more than six years. During the transition period, the Secretary may continue to use the authorities provided under sections 403, 403a, 405(b), and 427(a) of title 37, United States Code (as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997]), but subject to such modifications as the Secretary considers necessary, to provide allowances for members of the uniformed services."

## EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Section 602(b) of Pub. L. 102-190 provided that subsec. (m) of this section, as added by section 602(a) of Pub. L. 102-190, temporarily was not to apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before Dec. 5, 1991, was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support.

## ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Section 310A of Pub. L. 102-25 provided that, during the period beginning on Aug. 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict, a member of a reserve component of the uniformed services without dependents who was called or ordered to active duty in connection with Operation Desert Storm was to be entitled to a basic allowance for quarters under this section if, because of the call or order, the member was unable to continue to occupy a residence maintained as the primary residence of the member at the time of the call or order, and owned by the member or for which the member was responsible for rental payments.

## INCREASE IN BASIC ALLOWANCE FOR QUARTERS EFFECTIVE JANUARY 1, 1989

Pub. L. 100-456, div. A, title VI, §601(c), Sept. 29, 1988, 102 Stat. 1976, provided that the rates of basic allowance for quarters for members of the uniformed services were increased by 7 percent effective on Jan. 1, 1989, and authorized the President to allocate the increase among pay grades and dependency categories, and the Secretary of Defense to establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

## MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE AS OF DECEMBER 31, 1984

Pub. L. 99-190, §101(b) [title VIII, §8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that effective Jan. 1, 1985, the rate of the basic allowance for quarters authorized

by subsec. (a) of this section which was payable to a member of the uniformed services who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

## BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

Section 602(a) of Pub. L. 98-525, as amended by Pub. L. 99-661, div. A, title XIII, §1341(a), Nov. 14, 1986, 100 Stat. 3990, revised, effective Jan. 1, 1985, the rates of the basic allowance for quarters authorized by subsec. (a)(1) of this section and provided that, during the period beginning on Jan. 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increased the rates for such allowance to a level not less than 7 percent greater than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

## FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Section 906 of Pub. L. 98-94, as amended by Pub. L. 98-525, title VI, §602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

## VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Section 4(c) of Pub. L. 96-343 provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

## PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

## 1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, §302(f), 63 Stat. 812, as amended by Pub. L. 87-531, §1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

## ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, § 2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO  
PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, § 5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211)."

## EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 420, 1003, 1009 of this title; title 10 sections 708, 2830, 2882, 7573; title 14 section 686; title 32 section 107; title 50 App. section 454.

**[§ 403a. Repealed. Pub. L. 105-85, div. A, title VI,  
§ 603(c)(1), Nov. 18, 1997, 111 Stat. 1781]**

Section, added Pub. L. 98-525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99-145, title VI, §§ 602(a)-(d), 604(b), Nov. 8, 1985, 99 Stat. 636-638; Pub. L. 100-26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101-189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101-510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103-160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104-106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, §§ 604(d), 606(a)-(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances.

## EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as an Effective Date of 1997 Amendment note under section 5561 of Title 5, Government Organization and Employees.

**§ 403b. Cost-of-living allowance in the continental United States**

(a) **PAYMENT AUTHORIZED.**—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) **ELIGIBLE MEMBERS.**—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) **AMOUNT OF ALLOWANCE.**—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) **LIMITATION TO ONE ALLOWANCE.**—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) **SERVICE NOT COVERED.**—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) **AVERAGE SPENDABLE INCOME.**—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) **JOINT REGULATIONS.**—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) **OTHER DEFINITIONS.**—In this section:

(1) The term “primary dependent”, with respect to a member, means—

(A) the member’s spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

(2) The term “cost of living” means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

(A) The Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

(3) The term “uniformed services cost of living” means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

(B) Average income tax paid.

(C) Cost of health care.

(4) The term “base period”, with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

(5) The term “administering Secretaries” means the following:

(A) The Secretary of Defense, with respect to the armed forces (other than the Coast

Guard when it is not operating as a service in the Navy).

(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(6) The term “continental United States” means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 103-337, div. A, title VI, § 602(a)(1), Oct. 5, 1994, 108 Stat. 2779.)

#### CONDITIONS ON PROVISION OF ALLOWANCE

Section 602(b) of Pub. L. 103-337 provided that:

“(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

“(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

“(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

“(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

“(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

“(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.”

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

#### § 404. Travel and transportation allowances: general

(a) Except as provided in subsection (f) and under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station;

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed;



(4) when away from home to perform duty, including duty by a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, in his status as a member of the National Guard, for which he is entitled to, or has waived, pay under this title; and

(5) when not on active duty, if assigned to a Reserve school, and attending a reserve training meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.

(b)(1) The Secretaries concerned may prescribe—

(A) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(B) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

(2) In prescribing such conditions and allowances, the Secretaries concerned shall provide that a member who is performing travel under orders away from his designated post of duty and who is authorized a per diem under clause (2) of subsection (d) shall be paid for the meals portion of that per diem in a cash amount at a rate that is not less than the rate established under section 1011(a) of this title for meals sold to members. The preceding sentence shall not apply with respect to a member on field duty or sea duty (as defined in regulations prescribed under section 402(e)<sup>1</sup> of this title) or a member of a unit with respect to which the Secretary concerned has determined that unit messing is essential to the accomplishment of the unit's training and readiness.

(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2), a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein or more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001,

may, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a).

(2) A member authorized under paragraph (1) to select a home for the purposes of such allowances may select as his home—

(A) any place within the United States;

(B) the place outside the United States from which the member was called or ordered to active duty to his first duty station; or

(C) any other place.

However, if the member selects as his home a place other than a place described in clause (A) or (B) of the preceding sentence, the travel and transportation allowances authorized by subsection (a) may not exceed the allowances which would be payable if the place selected as his home were in the United States (other than Hawaii or Alaska).

(d)(1) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following:

(A) Transportation in kind, reimbursement therefor, or, under regulations prescribed by the Secretaries concerned, when travel by privately owned conveyance is authorized or approved as more advantageous to the Government, a monetary allowance in place of the cost of transportation, at the rates provided in section 5704 of title 5.

(B) Transportation in kind, reimbursement therefor, or a monetary allowance as provided in subparagraph (A), plus a payment in lieu of subsistence as provided in paragraph (2) in an amount sufficient to meet normal and necessary expenses in the area to which travel is performed.

(C) A mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under subparagraph (A).

(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to any of the following:

(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

(C) A combination of payments described in subparagraphs (A) and (B).

(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) shall be established, to the extent feasible, by locality.

(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) shall be allocated in such manner as the Secretaries concerned prescribe.

(e) A member who is on duty with, or is undergoing training for, the Air Mobility Command, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in ei-

<sup>1</sup> See References in Text note below.

ther case, the issuance of orders for specific travel.

(f)(1) The travel and transportation allowances authorized under this section for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed.

(2)(A) Except as provided in subparagraph (B), a member who is separated from the service or released from active duty and who—

(i) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve; or

(ii) is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned;

may be provided travel and transportation under this section only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001.

(3) For purposes of entitlement to per diem in place of subsistence under subsection (d)(2), a member shall not be considered under subsection (a)(1) to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

(g)(1) Subject to paragraph (2), a member of the armed forces accompanying a Member of Congress or a congressional employee on official travel may be authorized reimbursement for actual travel and transportation expenses incurred for such travel.

(2) The reimbursement authorized in paragraph (1) may be paid—

(A) at a rate that does not exceed the rate approved for official congressional travel; and

(B) only when the travel of the member is directed or approved by the Secretary of Defense or the Secretary concerned.

(3) In this subsection:

(A) The term “Member of Congress” means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(B) The term “congressional employee” means an employee of a Member of Congress or an employee of Congress.

(h) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.

(i)(1) In the case of a member of a reserve component performing active duty for training or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty. If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).

(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

(3) The Secretary may pay service charge expenses under paragraph (1) and expenses of providing lodging in kind under such paragraph out of funds appropriated for operation and maintenance for the reserve component concerned. Use of Government charge cards is authorized for payment of these expenses.

(4) Decisions regarding the availability or adequacy of government housing at a military installation under paragraph (1) shall be made by the installation commander.

(j) In this section, the term “involuntarily separated” has the meaning given that term in section 1141 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 472; Pub. L. 89-680, §1(1), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§55, 56, Nov. 2, 1966, 80 Stat. 1122, 1123; Pub. L. 90-168, §3, Dec. 1, 1967, 81 Stat. 525; Pub. L. 91-183, Dec. 30, 1969, 83 Stat. 840; Pub. L. 94-296, §1, May 29, 1976, 90 Stat. 584; Pub. L. 96-342, title VIII, §807(a), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 96-343, §5(a), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 97-60, title I, §121(a), Oct. 14, 1981, 95 Stat. 999; Pub. L. 98-94, title IX, §908(b), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title V, §533(g), title VI, §613(a), title XIV, §1402(c), Oct. 19, 1984, 98 Stat. 2528, 2539, 2621; Pub. L. 99-145, title VI, §612(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-500, §101(c) [title IX, §9073], Oct. 18, 1986, 100 Stat. 1783-82, 1783-113, and Pub. L. 99-591, §101(c) [title IX, §9073], Oct. 30, 1986, 100 Stat. 3341-82, 3341-113; Pub. L. 99-661, div. A, title VI, §614(a),

title XIII, § 1343(b)(2), Nov. 14, 1986, 100 Stat. 3879, 3995; Pub. L. 100-26, § 8(a), (d)(6), Apr. 21, 1987, 101 Stat. 284, 285; Pub. L. 100-180, div. A, title VI, § 617(a), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 101-189, div. A, title VI, § 621(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101-510, div. A, title V, § 503(a), Nov. 5, 1990, 104 Stat. 1558; Pub. L. 102-25, title VII, § 702(b)(1)–(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, § 624, Oct. 23, 1992, 106 Stat. 2423; Pub. L. 103-160, div. A, title V, § 561(l)(1), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title VI, §§ 621, 622, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104-106, div. A, title VI, § 621, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104-201, div. A, title XII, § 1252, Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105-85, div. A, title VI, § 602(b)(1), Nov. 18, 1997, 111 Stat. 1772; Pub. L. 105-261, div. A, title V, § 561(f), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106-65, div. A, title VI, § 631, Oct. 5, 1999, 113 Stat. 661.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
404(a) .....	37:253(a) (1st and 3d sentences).	Oct. 12, 1949, ch. 681, § 303(a), (d), 63 Stat. 813, 815; Mar. 31, 1955, ch. 20, § 2(11), 69 Stat. 21; Aug. 11, 1955, ch. 806, § 1, 69 Stat. 691; June 13, 1956, ch. 383, 70 Stat. 275; July 12, 1960, Pub. L. 86-638, § 1, 74 Stat. 471.
404(b) .....	37:253(a) (4th sentence).	
404(c) .....	37:253(a) (2d sentence).	
404(d) .....	37:253(a) (last sentence, less proviso).	
404(e) .....	37:253(d).	
404(f) .....	37:253(a) (proviso of last sentence).	

In subsection (a), the words “that post” are substituted for the words “such designated posts of duty”. In clauses (2) and (3), the words “called or” are inserted to conform to the second phrase of clause (2). The word “competent” is omitted as surplusage.

In subsection (b), the words “The Secretaries concerned” are substituted for the words “The respective Secretaries concerned” to conform to other subsections of the source statute.

In subsection (c)(1), the words “under chapter 61 of title 10” are inserted for clarity. In clause (2), the words “under any other law” are substituted for the words “for any other reason”.

In subsection (d), the words “may not be more than one of the following” are substituted for the words “shall be limited to one of the following”. The words “or to be established” and “existing” are omitted, since this section, being permanent law, is consistently applicable in the present and does not speak only as of the date of its enactment. The words “of the Army” are substituted for the words “Department of the Army” after the words “Chief of Finance” to conform to section 3036(a)(5) of title 10. The words “under clause (1) of this subsection” are substituted for the words “pursuant to existing law”.

In subsection (e), the words “Fleet Logistic Air Wings” are substituted for the words “Fleet Logistics Support Unit” to reflect present terminology.

In subsection (f), the words “under this section” are substituted for the words “under conditions authorized herein”. The words “on the member’s” are inserted for clarity.

## REFERENCES IN TEXT

Section 402 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 105-85, div. A, title VI, § 602(a), Nov. 18, 1997, 111 Stat. 1771, and was further amended by Pub. L. 105-261, div. A, title VI, § 604(a), Oct. 17, 1998, 112 Stat. 2037, and, as so amended, subsec. (e) of section 402 no longer relates to regulations. Authority to prescribe regulations for the administration of section 402 is contained elsewhere in section 402.

## CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

Amendment of section by Pub. L. 99-500 and Pub. L. 99-591 is based on section 615(a) of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by Pub. L. 99-500 and Pub. L. 99-591. S. 2638 was subsequently enacted as Pub. L. 99-661.

## PRIOR PROVISIONS

Provisions similar to those in subsec. (g) of this section were contained in the following appropriations acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8053], 98 Stat. 1904, 1933.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 761, 97 Stat. 1449.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 767], 96 Stat. 1833, 1861.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 771, 95 Stat. 1590.

## AMENDMENTS

1999—Subsec. (i)(1). Pub. L. 106-65, § 631(a), inserted at end “If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).”

Subsec. (i)(3). Pub. L. 106-65, § 631(b), inserted “and expenses of providing lodging in kind under such paragraph” after “paragraph (1)” and “Use of Government charge cards is authorized for payment of these expenses.” at end.

Subsec. (i)(4). Pub. L. 106-65, § 631(c), added par. (4).

1998—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 105-261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

1997—Subsecs. (g) to (k). Pub. L. 105-85 redesignated subsecs. (h) to (k) as (g) to (j), respectively, and struck out former subsec. (g) which read as follows: “In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.”

1996—Subsec. (d)(1)(A). Pub. L. 104-106 struck out “, based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense” after “section 5704 of title 5”.

Subsec. (j)(1). Pub. L. 104-201 substituted “active duty for training” for “annual training duty”.

1994—Subsec. (d)(1)(A). Pub. L. 103-337, § 621, substituted “Secretary of Defense” for “Secretary of the Army”.

Subsecs. (j), (k). Pub. L. 103-337, § 622, added subsec. (j) and redesignated former subsec. (j) as (k).

1993—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1992—Subsec. (e). Pub. L. 102-484 substituted “Air Mobility Command” for “Military Airlift Command” and “the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,” for “or the Naval Aircraft Ferrying Squadrons.”

1991—Pub. L. 102-25 struck out “of this section”, “of this subsection”, and “of this paragraph” wherever appearing in subsecs. (a) to (d) and (f).

1990—Subsec. (c)(1). Pub. L. 101-510, § 503(a)(1), added subpar. (C) and inserted “involuntarily separated,” after “placed on that list,” in concluding provisions.

Subsec. (f)(2)(B)(v). Pub. L. 101-510, § 503(a)(2), added cl. (v).

Subsec. (j). Pub. L. 101-510, § 503(a)(3), added subsec. (j).

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (d). Pub. L. 100-26, §8(a), terminated amendments by Pub. L. 99-500 and Pub. L. 99-591. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(A). Pub. L. 100-26, §8(d)(6), substituted “privately owned” for “privately-owned”.

Subsec. (h). Pub. L. 100-180 added subsec. (h).

1986—Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591 substituted “Subject to paragraph (2), transportation” for “Transportation” in par. (1)(B) and “subparagraph (A) of this paragraph” for “clause (1) of this subsection” in par. (1)(C) and added pars. (2), (4), and (5), and redesignated former par. (2) as (3) and substituted “Except as provided in paragraph (4) of this subsection and under” for “Under”. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(B). Pub. L. 99-661, §614(a)(1), (2), substituted “payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient” for “per diem in place of subsistence in an amount not more than \$50 determined by the Secretaries concerned to be sufficient” and struck out “to be” after “travel is”.

Subsec. (d)(1)(C). Pub. L. 99-661, §1343(b)(2), substituted “subparagraph (A) of this paragraph” for “clause (1) of this subsection”.

Subsec. (d)(2) to (4). Pub. L. 99-661, §614(a)(3), added pars. (2) to (4) and struck out former par. (2) which read as follows: “Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the per diem of paragraph (1)(B) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than \$75 for each day in a travel status.”

1985—Subsec. (d). Pub. L. 99-145 substituted par. (1) for first sentence, designated second sentence as par. (2), and in par. (2) substituted “paragraph (1)(B)” for “clause (2)”. Prior to amendment, first sentence read as follows: “The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

“(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate per mile prescribed by the Secretaries concerned and based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

“(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence in an amount sufficient to meet actual and necessary expenses, but in no event more than \$50 a day; or

“(3) a mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under clause (1) of this subsection.”

1984—Subsec. (a)(5). Pub. L. 98-525, §613(a), added par. (5).

Subsec. (c)(1)(B). Pub. L. 98-525, §533(g), inserted “separation pay or” before “severance pay” and before “readjustment pay”.

Subsec. (g). Pub. L. 98-525, §1402(c), added subsec. (g). 1983—Subsec. (f)(3). Pub. L. 98-94 added par. (3).

1981—Subsec. (a). Pub. L. 97-60, §121(a)(1), substituted “Except as provided in subsection (f) of this section and under regulations” for “Under regulations”.

Subsec. (b). Pub. L. 97-60, §121(a)(2), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), and added par. (2).

Subsec. (c). Pub. L. 97-60, §121(a)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1),

inserted “and as provided in paragraph (2) of this subsection” after “Secretaries concerned” in provisions preceding newly designated subpar. (A), and added par. (2).

Subsec. (f). Pub. L. 97-60, §121(a)(4), designated existing provisions as par. (1), substituted “for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed” for “may be paid on the member’s separation from the service or release from active duty, whether or not he performs the travel involved” in par. (1) as so designated, and added par. (2).

1980—Subsec. (d). Pub. L. 96-343, §5(a), substituted in par. (1) “per mile prescribed by the Secretaries concerned and” for “that is not more than 7 cents a mile”, and in par. (3) “at a rate per mile prescribed by the Secretaries concerned and” for “of not more than 10 cents a mile”.

Pub. L. 96-342 substituted in par. (2) “\$50” for “\$35” and in provision following par. (3) “\$75” for “\$50”.

1976—Subsec. (d). Pub. L. 94-296 in cl. (2) substituted “in an amount sufficient to meet actual and necessary expenses, but in no event more than \$35 a day” for “of not more than \$25 a day”, and in text following cl. (3) inserted provisions relating to travel designated as travel to a high cost area by the prescribed regulations and increased the maximum reimbursement from \$40 to \$50.

1969—Pub. L. 91-183 increased from \$16 to \$25, the maximum per diem allowance, and from \$30 to \$40, the maximum per diem allowance in unusual circumstances.

1967—Subsec. (a)(4). Pub. L. 90-168 added cl. (4).

1966—Subsec. (c). Pub. L. 89-680 inserted into the authorization for selection of a home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section provisions requiring selection not later than one year from the date of retirement, placement, discharge, or release, except as provided in regulations to be prescribed by the Secretaries concerned.

Subsec. (d). Pub. L. 89-718, §55, struck out reference to the Chief of Finance of the Army in cl. (1), substituted “subsection” for “section” and “\$16” for “\$12” in cl. (2), substituted “subsection” for “section” in cl. (3), and inserted provision authorizing reimbursement on an actual expenses basis where, due to unusual circumstances of a travel assignment, per diem reimbursement is not enough, but placing a limit of \$30 for each day in a travel status.

Subsec. (e). Pub. L. 89-718, §56, substituted “Military Airlift Command” for “Military Air Transport Service”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105-85, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 621(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989].”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-180 applicable with respect to travel performed after Dec. 4, 1987, see section 617(c) of Pub. L. 100-180, set out as an Effective Date note under section 1591 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Section 612(b)(1) of Pub. L. 100-180 provided that: “The amendments made by section 614(a) of the National Defense Authorization Act for Fiscal Year 1987 [section 614(a) of Pub. L. 99-661, which amended this section] shall be implemented by the Secretaries con-

cerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to travel performed on or after the date of implementation.”

Section 614(b) of Pub. L. 99-661, which provided that amendments made by section 614(a) of Pub. L. 99-661 shall become effective on such date as the President makes a certification regarding savings to the United States by such amendments, was repealed by Pub. L. 100-180, div. A, title VI, §612(a), Dec. 4, 1987, 101 Stat. 1093.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 612(c) of Pub. L. 99-145 provided that: “The amendments made by this section [amending this section and section 406 of this title] shall apply to travel performed after September 30, 1985.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 613(b) of Pub. L. 98-525 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1984.”

Amendment by section 1402(c) of Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 121(d) of Pub. L. 97-60 provided that:

“(1) Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section [amending this section and sections 405a and 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are separated from the service or released from active duty on or after November 1, 1981.

“(2) Paragraph (2) of section 404(b) of title 37, United States Code, as added by subsection (a)(2)(C), shall apply to travel performed after October 31, 1981.

“(3) Paragraph (3) of section 406(a) of title 37, United States Code, as added by subsection (b)(1)(C), shall take effect on the date of the enactment of this Act [Oct. 14, 1981].

“(4) The amendments made by subsections (a)(3) and (b)(3) [amending this section and section 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after November 1, 1981, except that such amendments shall not apply to any member who before November 1, 1981, had completed eighteen years of active service.

“(5) The amendment made by subsection (b)(2)(C) [amending section 406 of this title] shall take effect on the date of the enactment of this Act [Oct. 14, 1981].”

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Section 5(c) of Pub. L. 96-343 provided that: “The amendments made by this section [amending this section and section 411 of this title] shall be effective with respect to travel and transportation performed after August 31, 1980.”

Section 807(b) of Pub. L. 96-342 provided that: “The amendments made by subsection (a) [amending this section] shall only apply to travel and transportation expenses incurred after September 30, 1980.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-296 provided that: “The amendments made by this Act [amending this section] become effective on the first day of the first calendar month following the date of enactment [May 29, 1976].”

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-168 effective on first day of first calendar month following Dec. 1, 1967, see section

7 of Pub. L. 90-168, set out as a note under section 138 of Title 10, Armed Forces.

#### TERMINATION OF AMENDMENTS BY PUBLIC LAWS 99-500 AND 99-591

Section 8(a) of Pub. L. 100-26, as amended by Pub. L. 100-180, div. A, title VI, §612(b)(2), Dec. 4, 1987, 101 Stat. 1093, provided that: “The amendments made to section 404(d) of title 37, United States Code, by section 614(a) of the Defense Authorization Act [section 614(a) of Pub. L. 99-661] shall be executed as if that portion of section 9073 of the Defense Appropriations Act [section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, enacting S.2638, §615, which amended subsec. (d) of this section and enacted a provision set out as a note under this section] which is before the proviso had not been enacted. Such portion of section 9073 which is before the proviso shall not be in effect after the date of the enactment of this Act [Apr. 21, 1987], and the reference to ‘this section’ in such proviso shall be deemed to refer to section 614 of the Defense Authorization Act.”

#### TRANSMISSION OF CERTIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO CONGRESS WITH RESPECT TO FISCAL YEAR 1987

Section 615(b) of S. 2638, as passed by the Senate on Aug. 9, 1986, and as enacted into law by section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, related to transmission to Congress by Secretary of Defense of certification of costs of travel and transportation allowances for fiscal year 1987. See Termination of Amendments by Public Laws 99-500 and 99-591 note above.

#### INCREASE IN RATE PER MILE FOR MILEAGE ALLOWANCE

Pub. L. 98-473, title I, §101(h) [title VIII, §8113], Oct. 12, 1984, 98 Stat. 1904, 1944, provided that: “The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available within the permanent change of station travel account, may increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile.”

#### 1962 INCREASE IN PER DIEM RATES; REIMBURSEMENT FOR ACTUAL EXPENSES INCIDENT TO TRAVEL

The increase from \$12 to \$16 in the per diem allowance and the provision for reimbursement for actual expenses incident to travel up to \$30 per day provided in the amendment of subsec. (d) of this section by Pub. L. 89-718 had already been put into effect by Pub. L. 87-500, §§1, 2, June 27, 1962, 76 Stat. 111, which although not amending subsec. (d) of this section, had raised the per diem allowance and provided for the reimbursement for actual expenses up to \$30 per day through the device of effecting an amendment to section 303(a) of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813. Pub. L. 89-500 was repealed by section 75(3) of Pub. L. 89-718, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966.

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

Travel and transportation allowances for reserves and members of National Guard who perform training or other duty without pay, see section 1002 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404a, 406, 406a, 406b, 406c, 408, 410, 411, 411a, 411b, 411e, 420, 433, 1002, 1003 of this title; title 5 section 4109; title 10 sections 1174a, 1175, 2013.

**§ 404a. Travel and transportation allowances: temporary lodging expenses**

(a) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who is ordered to make a change of permanent station—

(1) from any duty station to a duty station in the United States (other than Hawaii or Alaska);

(2) from a duty station in the United States (other than Hawaii or Alaska) to a duty station outside the United States or in Hawaii or Alaska; or

(3) in the case of an enlisted member who is reporting to the member's first permanent duty station, from the member's home of record or initial technical school to that first permanent duty station;

shall be paid or reimbursed for subsistence expenses actually incurred by the member and the member's dependents while occupying temporary quarters incident to that change of permanent station. In the case of a change of permanent station described in paragraph (1) or (3), the period for which such expenses are to be paid or reimbursed may not exceed 10 days. In the case of a change of permanent station described in paragraph (2), the period for which such expenses are to be paid or reimbursed may not exceed five days and such payment or reimbursement may be provided only for expenses incurred before leaving the United States (other than Hawaii or Alaska).

(b) Regulations prescribed under subsection (a) shall prescribe average daily subsistence rates for purposes of this section for the member and for each dependent. Such rates may not exceed the maximum per diem rates prescribed under section 404(d) of this title for the area where the temporary quarters are located.

(c) A member may not be paid or reimbursed more than \$110 a day under this section.

(Added Pub. L. 97-60, title I, §122(a)(1), Oct. 14, 1981, 95 Stat. 1002; amended Pub. L. 99-145, title VI, §613(a), Nov. 8, 1985, 99 Stat. 640; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §621, Oct. 23, 1992, 106 Stat. 2422; Pub. L. 103-160, div. A, title VI, §621(a), (b), Nov. 30, 1993, 107 Stat. 1682; Pub. L. 106-65, div. A, title VI, §632, Oct. 5, 1999, 113 Stat. 661.)

**AMENDMENTS**

1999—Subsec. (a). Pub. L. 106-65 added par. (3) and substituted “paragraph (1) or (3)” for “clause (1)” and “paragraph (2)” for “clause (2)” in concluding provisions.

1993—Subsec. (a). Pub. L. 103-160, §621(a), substituted “10 days” for “four days” in second sentence and “five days” for “two days” in third sentence.

Subsec. (d). Pub. L. 103-160, §621(b), struck out subsec. (d) which read as follows: “In the case of a member who is ordered to make a change of permanent station described in subsection (a)(1) during fiscal years 1993 through 1997, the Secretary concerned may extend the period for which subsistence expenses incurred incident to that change are paid or reimbursed to not more than 10 days if the new duty station is in a geographical area where there is a shortage of safe and affordable housing because of the arrival of members of the armed forces

in the area as part of the withdrawal of members of the armed forces from duty stations outside the United States, the closure or realignment of military installations, or the restructuring or deactivation of military units. The existence of such a shortage of safe and affordable housing in an area shall be determined by the Secretary concerned.”

1992—Subsec. (d). Pub. L. 102-484 added subsec. (d).

1991—Subsec. (a). Pub. L. 102-25, §702(b)(2), struck out “of this subsection” after “clause (1)” and “clause (2)”.

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (a)”.

1985—Subsec. (a). Pub. L. 99-145 substituted “shall” for “may” in first sentence, and substituted “are to” for “may” the first place it appears in second and third sentences.

**EFFECTIVE DATE OF 1993 AMENDMENT**

Section 621(c) of Pub. L. 103-160 provided that: “The amendments made by this section [amending this section] shall take effect on April 1, 1994.”

**EFFECTIVE DATE OF 1985 AMENDMENT**

Section 613(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.”

**EFFECTIVE DATE**

Section 122(c) of Pub. L. 97-60 provided that: “The amendments made by this section [enacting this section and amending section 411 of this title] shall take effect on April 1, 1982.”

**PROHIBITION ON PAYMENT OF TEMPORARY LODGING EXPENSES; EXCEPTION**

Pub. L. 99-500, §101(c) [title IX, §9097], Oct. 18, 1986, 100 Stat. 1783-82, 1783-117, and Pub. L. 99-591, §101(c) [title IX, §9097], Oct. 30, 1986, 100 Stat. 3341-82, 3341-117, provided that: “None of the funds appropriated by this Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: *Provided*, That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 411, 420 of this title.

**§ 405. Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska**

(a) Without regard to the monetary limitations of this title, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

(b) Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 89-718, §57, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 91-486, Oct. 22, 1970, 84 Stat. 1085; Pub. L. 96-107, title VIII, §807(a), Nov. 9, 1979, 93 Stat. 813; Pub. L. 98-525, title VI, §602(e), Oct. 19, 1984, 98 Stat.

2536; Pub. L. 99-145, title XIII, §1303(b)(8), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101-189, div. A, title VI, §622(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 103-160, div. A, title VI, §622(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 105-85, div. A, title VI, §603(c)(2), Nov. 18, 1997, 111 Stat. 1781; Pub. L. 105-261, div. A, title VI, §603(b), Oct. 17, 1998, 112 Stat. 2037.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
405 .....	37:253(b).	Oct. 12, 1949, ch. 681, §303(b), 63 Stat. 814.

The words “Secretaries concerned” are substituted for the words “Secretaries of the uniformed services” to conform to other subsections of the source statute. The words “outside the United States, or in Hawaii or Alaska” are substituted for the words “outside the continental United States or in Alaska” to conform to the definition of United States in section 101(1) of this revised title and to retain the coverage of the source statute.

## AMENDMENTS

1998—Subsec. (c). Pub. L. 105-261 struck out subsec. (c) which authorized the Secretary concerned to make a lump-sum payment for nonrecurring expenses to certain members of the uniformed services authorized to receive per diem allowances under subsec. (a).

1997—Subsecs. (b) to (d). Pub. L. 105-85 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “A station housing allowance may be prescribed under this section for a member who is on duty outside of the United States without regard to costs other than housing costs and may consist of the difference between basic allowance for quarters and applicable housing cost. A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska. A station housing allowance prescribed under this section may be paid in advance.”

1993—Subsec. (d). Pub. L. 103-160 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).”

1989—Subsec. (d). Pub. L. 101-189 added subsec. (d).

1985—Pub. L. 99-145 inserted “the” after “outside” in section catchline.

1984—Subsec. (a). Pub. L. 98-525, §602(e)(1), designated first two sentences of existing section as subsec. (a).

Subsec. (b). Pub. L. 98-525, §602(e)(2), (3), designated third and fourth sentences of existing section as subsec. (b), in such third sentence as so designated inserted “for a member who is on duty outside of the United States” after “under this section”, and inserted after such third sentence: “A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.”

Subsec. (c). Pub. L. 98-525, §602(e)(4), designated last sentence of existing section as subsec. (c).

1979—Pub. L. 96-107 inserted provisions relating to advance payment of station housing allowances.

1970—Pub. L. 91-486 inserted provision authorizing a station housing allowance.

1966—Pub. L. 89-718 substituted “the” for “a” after “including”.

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note

under section 5561 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 1993 AMENDMENT

Section 622(b) of Pub. L. 103-160 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to nonrecurring expenses and currency fluctuation gains described in section 405(d) [now 405(c)] of title 37, United States Code, that are incurred by members of the uniformed services on or after October 1, 1993.”

## EFFECTIVE DATE OF 1989 AMENDMENT

Section 622(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to expenses incurred after August 31, 1990.”

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98-525, as amended, set out as a note under section 403 of this title.

## EFFECTIVE DATE OF 1979 AMENDMENT

Section 807(b) of Pub. L. 96-107 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1979.”

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 411, 420, 1003 of this title; title 2 section 906; title 5 section 4109; title 10 section 2013; title 36 section 2101.

**§ 405a. Travel and transportation allowances: departure allowances**

(a) Under regulations prescribed by the Secretaries concerned, when dependents of members of the uniformed services are authorized or ordered to depart by competent authority, they may be authorized such allowances as the Secretary concerned determines necessary to offset the expenses incident to the departure. Allowances authorized by this section are in addition to those authorized by any other section of this title. Such allowances may be paid in advance. For the purposes of this section, a dependent “authorized or ordered to depart by competent authority” includes—

(1) a dependent who is present at or in the vicinity of the member’s duty station when the departure of dependents is authorized or ordered by competent authority and who actually moved to an authorized safe haven designated by that authority, whether such safe haven is at or in the vicinity of the member’s duty station or elsewhere;

(2) a dependent who resides at or in the vicinity of a former duty station of the member following the assignment of the member elsewhere or who resides at or in the vicinity of a duty station (other than the duty station of the member) incident to orders in connection with an unaccompanied tour of duty of the member, if a departure of dependents is authorized or ordered by competent authority from the duty station at which or in the vicinity

ity of which the dependent resides and the dependent actually moves to an authorized safe haven designated by that authority;

(3) a dependent who established a household at or in the vicinity of the member's duty station but who is temporarily absent therefrom for any reason when departure of dependents is authorized or ordered by competent authority; and

(4) a dependent who was authorized to join the member and who departed from his former place of residence incident to joining the member but who, as a result of the departure of dependents, is diverted to a safe haven designated by competent authority or is authorized to travel to a place the dependent may designate, even though he was in the United States when the departure was authorized or ordered.

(b)(1) Under regulations prescribed by the Secretaries concerned, each member whose dependents are covered by subsection (a) is entitled to have one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents, transported at the expense of the United States to a designated place for the use of the dependents. When the dependents are permitted to rejoin the member, the vehicle may be transported at the expense of the United States to his permanent duty station.

(2) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(Added Pub. L. 89-26, §1(1), May 22, 1965, 79 Stat. 116; amended Pub. L. 89-608, §2, Sept. 30, 1966, 80 Stat. 851; Pub. L. 96-465, title II, §2303(e), Oct. 17, 1980, 94 Stat. 2165; Pub. L. 97-60, title I, §§121(c), 123, Oct. 14, 1981, 95 Stat. 1002, 1003; Pub. L. 99-661, div. A, title XIII, §1343(b)(3), Nov. 14, 1986, 100 Stat. 3995; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §625(b)(1), Oct. 23, 1992, 106 Stat. 2424; Pub. L. 104-106, div. A, title VI, §622(a), Feb. 10, 1996, 110 Stat. 363; Pub. L. 105-261, div. A, title VI, §653(c), Oct. 17, 1998, 112 Stat. 2052.)

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1996—Subsec. (a). Pub. L. 104-106 substituted "authorized or ordered" for "ordered" wherever appearing.

1992—Subsec. (a)(2) to (4). Pub. L. 102-484 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (b). Pub. L. 102-25 struck out "of this section" after "subsection (a)".

1986—Pub. L. 99-661 substituted "departure" for "evacuation" in section catchline.

1981—Subsec. (a). Pub. L. 97-60, §123, inserted provision authorizing the payment of allowances in advance.

Subsec. (b). Pub. L. 97-60, §121(c), substituted "that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents" for "owned by him and for his personal use, or the use of the dependents,".

1980—Subsec. (a). Pub. L. 96-465 substituted "to depart" and "departure" for "evacuated" and "evacuation", respectively, wherever appearing.

1966—Subsec. (a). Pub. L. 89-608 struck out provision requiring that to qualify for allowances the evacuated dependents have been evacuated from places outside the United States to places inside the United States.

#### EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105-261, see section 653(e) of Pub. L. 105-261, set out as a note under section 2634 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104-106 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to persons authorized or ordered to depart as described in section 405a(a) of title 37, United States Code, on or after October 1, 1995."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 625(b)(2) of Pub. L. 102-484 provided that: "The amendments made by paragraph (1) [amending this section] shall take effect as of August 23, 1992, and shall apply with respect to any evacuation ordered by competent military authority on or after that date."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-60 effective Nov. 1, 1981, to apply to members who are separated from the service or released from active duty on or after Nov. 1, 1981, see section 121(d) of Pub. L. 97-60, set out as a note under section 404 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

#### EFFECTIVE DATE

Section 2 of Pub. L. 89-26, as amended by Pub. L. 89-608, §1, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92-176, Dec. 2, 1971, 85 Stat. 494, provided that: "This Act [enacting this section and amending sections 407, 411, and 1006 of this title] becomes effective on February 1, 1965."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 411, 420, 1003, 1006 of this title.

### § 406. Travel and transportation allowances: dependents; baggage and household effects

(a)(1) Except as provided in paragraph (2), a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned, but not more than the rate authorized under section 404(d) of this title.

(2)(A) Except as provided in subparagraph (B), a member who—

(i) is separated from the service or released from active duty; and



(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001.

(3) The allowances authorized under this subsection may be paid in advance.

(4) In this section, the term “involuntarily separated” has the meaning given that term in section 1141 of title 10.

(b)(1)(A) Except as provided in paragraph (2), in connection with a change of temporary or permanent station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects within the weight allowances listed in subparagraph (C), without regard to the comparative costs of the various modes of transportation. Temporary storage in excess of 180 days may be authorized. Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).

(B) Subject to uniform regulations prescribed by the Secretaries concerned, in the case of a permanent change of station in which the Secretary concerned has authorized transportation of a motor vehicle under section 2634 of title 10 (except when such transportation is authorized from the old duty station to the new duty station), the member is entitled to a monetary allowance for transportation of that motor vehicle—

(i) from the old duty station to—

(I) the customary port of embarkation which is nearest the old duty station if delivery of the motor vehicle to the port of embarkation is not made in conjunction with the member's travel to the member's port of embarkation; or

(II) the customary port of embarkation which is nearest to the member's port of em-

barkation if delivery of the motor vehicle to the port of embarkation is made in conjunction with the member's travel to the member's port of embarkation;

whichever is most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station; and

(ii) from the customary port of debarkation which has been designated by the Government as most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station to the new duty station.

Such monetary allowance shall be established at a rate per mile that does not exceed the rate established under section 404(d)(1) of this title. If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.

(C) Under regulations prescribed by the Secretary of Defense, the weight allowance in pounds to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

Pay Grade	Without Dependents	With Dependents
O-10 to O-6 .....	18,000	18,000
O-5 .....	16,000	17,500
O-4 .....	14,000	17,000
O-3 .....	13,000	14,500
O-2 .....	12,500	13,500
O-1 .....	10,000	12,000
W-5 .....	16,000	17,500
W-4 .....	14,000	17,000
W-3 .....	13,000	14,500
W-2 .....	12,500	13,500
W-1 .....	10,000	12,000
E-9 .....	12,000	14,500
E-8 .....	11,000	13,500
E-7 .....	10,500	12,500
E-6 .....	8,000	11,000
E-5 .....	7,000	9,000
E-4 <sup>1</sup> .....	7,000	8,000
E-4 <sup>2</sup> .....	3,500	7,000
E-3 .....	2,000	5,000
E-2 .....	1,500	5,000
E-1 .....	1,500	5,000

<sup>1</sup>Member with more than two years of service computed under section 205 of this title.

<sup>2</sup>Member with less than two years of service computed under section 205 of this title.

(D) In connection with the change of temporary or permanent station of a member in a pay grade below pay grade O-6, the Secretary concerned may authorize a higher weight allowance than the weight allowance determined under subparagraph (C) for the member if the Secretary concerned determines that the application of the weight allowance determined under such subparagraph would result in significant hardship to the member or the dependents of the member. An increase in weight allowance under this subparagraph may not result in a weight allowance exceeding the weight allow-

ance specified in subparagraph (C) for pay grades O-6 to O-10, unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member. The Secretary of Defense shall prescribe regulations to carry out this subparagraph.

(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for cadets and midshipmen is 350 pounds.

(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member's request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Transportation, and the Department of Health and Human Services for providing transportation of baggage or household effects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.

(2) The transportation and allowances authorized under paragraph (1) may be paid or provided to a member upon his separation from the service or release from active duty only if the member applies for the transportation and allowances not later than 180 days after the date of his separation or release from active duty. If a member to whom this paragraph applies has been authorized nontemporary storage under subsection (d), the 180-day period shall not begin until such authorization for nontemporary storage expires. This paragraph does not apply to a member to whom subsection (g)(1) applies.

(c) The allowances and transportation authorized by subsections (a) and (b) are in addition to those authorized by sections 403(c), 404, and 405 of this title and are—

- (1) subject to such conditions and limitations;
- (2) for such grades, ranks, and ratings; and
- (3) to and from such places;

prescribed by the Secretaries concerned. Transportation of the household effects of a member

may not be made by commercial air carrier at an estimated over-all cost that is more than the estimated over-all cost of the transportation thereof by other means, unless an appropriate transportation officer has certified in writing to his commanding officer that those household effects to be so transported are necessary for use in carrying out assigned duties, or are necessary to prevent undue hardship and other means of transportation will not fill those needs. However, not more than 1,000 pounds of unaccompanied baggage may be transported by commercial air carrier, without regard to the preceding sentence, under regulations prescribed under the authority of the Secretary of Defense.

(d) The nontemporary storage of baggage and household effects may be authorized in facilities of the United States, or in commercial facilities when it is considered to be more economical to the United States. However, the weight of baggage and household effects stored, plus the weight of the baggage and household effects transported, in connection with a change of station may not be more than the maximum weight limitations in regulations prescribed by the Secretaries concerned when it is not otherwise fixed by law. In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate. The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay.

Except in the case of a member who, on the date of his separation, discharge, or release, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment, the cost of the storage, for the period that exceeds one year, shall be paid by the member.

(e) When orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household

effects, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof (as the case may be), plus a per diem, as authorized under subsection (a) or (b). This subsection may be used only under unusual or emergency circumstances, including those in which—

(1) the member is performing duty at a place designated by the Secretary concerned as being within a zone from which dependents should be evacuated;

(2) orders which direct the member's travel in connection with temporary duty do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from his permanent station; or

(3) the member is serving on permanent duty at a station outside the United States, in Hawaii or Alaska, or on sea duty.

(f) Under regulations prescribed by the Secretary concerned, transportation for dependents, baggage, and household effects of a member, plus a per diem for the member's dependents, is authorized if he dies while entitled to basic pay under chapter 3 of this title.

(g)(1) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001,

is, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title, and to a per diem for his dependents. In addition, baggage and household effects may be shipped to a location other than the home selected by the member.

(2) If baggage and household effects of a member are shipped to a place selected by a member as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title or to a location other than the home selected by the member, or if transportation is provided for a member's dependents to a place selected by the member as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title, and the costs of that shipment or transportation are in excess of those that would have been incurred if the shipment had been made or the transportation had been provided to a location in the United States (other than Alaska or Hawaii), the member shall pay that excess cost.

(3) If a member authorized to select a home under section 404(c) of this title accrues that right or any entitlement under this subsection but dies before he exercises it, that right or entitlement accrues to and may be exercised by his surviving dependents or, if there are no surviving dependents, his baggage and household effects may be shipped to the home of the person legally entitled to such baggage and effects. However, if baggage and household effects are shipped under circumstances described in paragraph (2) in which the member would have been required to pay the excess costs of that shipment, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, shall pay that excess cost.

(h)(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle, which is owned or leased by the member (or a dependent of the member) and is for the personal use of a dependent of the member, to that location by means of transportation authorized under section 2634 of title 10 or authorize the storage of the motor vehicle pursuant to subsection (b) of such section.

If the member's baggage and household effects are in nontemporary storage under subsection (d), the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b). For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member while the member was serving at that station shall still be considered as a dependent of the member.

(2) A member referred to in paragraph (1) is a member who—

(A) is serving at a station outside the United States or in Hawaii or Alaska;

(B) receives an administrative discharge under other than honorable conditions; or

(C) is sentenced by a court-martial—

(i) to be confined for a period of more than 30 days,

(ii) to receive a dishonorable or bad-conduct discharge, or

(iii) to be dismissed from a uniformed service.

(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(i) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, plus a per diem for the member's dependents, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.

(j) Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.

(k) For the purposes of this section, the residence of a dependent of a member who is a student not living with the member while at school shall be considered to be the permanent duty station of the member or the designated residence of dependents of the member if the member's dependents are not authorized to reside with the member.

(l) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 88-431, §1(a), Aug. 14, 1964, 78 Stat. 439; Pub. L. 89-101, §2, July 30, 1965, 79 Stat. 425; Pub. L. 89-680, §1(2), (3), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§58, 59, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-623, §3(6), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-107, title VIII, §814, Nov. 9, 1979, 93 Stat. 817; Pub. L. 96-513, title V, §506(7), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 97-60, title I, §121(b), Oct. 14, 1981, 95 Stat. 1000; Pub. L. 97-86, title IV, §404,

Dec. 1, 1981, 95 Stat. 1105; Pub. L. 97-258, §2(i)(1), Sept. 13, 1982, 96 Stat. 1061; Pub. L. 97-295, §3(4), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 98-94, title IX, §909, Sept. 24, 1983, 97 Stat. 638; Pub. L. 99-145, title VI, §§612(b), 614(a), 617(a), title XIII, §1303(b)(9), Nov. 8, 1985, 99 Stat. 639-641, 741; Pub. L. 99-433, title VI, §602(f)(2), Oct. 1, 1986, 100 Stat. 1070; Pub. L. 99-661, div. A, title VI, §§617(a), 620(a), (b)(1), 652(a), (b), Nov. 14, 1986, 100 Stat. 3880, 3882, 3888; Pub. L. 100-180, div. A, title VI, §616(b), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 100-456, div. A, title VI, §602(a), Sept. 29, 1988, 102 Stat. 1976; Pub. L. 101-189, div. A, title VI, §623(a), (b), Nov. 29, 1989, 103 Stat. 1447; Pub. L. 101-510, div. A, title V, §503(b), title VI, §§621, 622(a), title XIV, §1484(i)(9), Nov. 5, 1990, 104 Stat. 1558, 1580, 1718; Pub. L. 102-25, title VII, §702(b)(1)-(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title XI, §1111(d)(4), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 102-241, §12, Dec. 19, 1991, 105 Stat. 2213; Pub. L. 102-484, div. A, title VI, §622(a), title X, §1054(a)(4), Oct. 23, 1992, 106 Stat. 2422, 2502; Pub. L. 103-160, div. A, title V, §561(l)(1), title XI, §1182(d)(1), Nov. 30, 1993, 107 Stat. 1668, 1773; Pub. L. 104-106, div. A, title VI, §§623, 642(a)(1), title XV, §§1502(b), 1505(d), Feb. 10, 1996, 110 Stat. 363, 368, 506, 514; Pub. L. 104-201, div. A, title III, §368(b), title VI, §§621(a), 624, Sept. 23, 1996, 110 Stat. 2498, 2548; Pub. L. 105-85, div. A, title VI, §§603(d)(1)(B), 631, Nov. 18, 1997, 111 Stat. 1782, 1795; Pub. L. 105-261, div. A, title V, §561(f), title VI, §§631(a), (b)(1), 632, 653(b), Oct. 17, 1998, 112 Stat. 2025, 2043, 2044, 2051.)

#### HISTORICAL AND REVISION NOTES 1962 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
406(a) .....	37:253(c) (1st sentence, less 1st 33 words, and less last 59 words).	Oct. 12, 1949, ch. 681, §303(c), (1st through 3d, 9th, 11th, 13th through 16th and last, sentences), 63 Stat. 814; Mar. 31, 1955, ch. 20, §2(12), (13), 69 Stat. 21, 22; Aug. 5, 1955, ch. 571, 69 Stat. 532; Aug. 11, 1955, ch. 806, §2, 69 Stat. 691; July 12, 1960, Pub. L. 86-637, §1(a), 74 Stat. 471; July 12, 1960, Pub. L. 86-638, §2, 74 Stat. 471; Aug. 17, 1961, Pub. L. 87-140, 75 Stat. 341.
406(b) .....	37:253(c) (last 59 words of 1st sentence).	
406(c) .....	37:253(c) (1st 33 words of 1st sentence and 2d sentence).	
406(d) .....	37:253(c) (3d sentence).	
406(e) .....	37:253(c) (9th sentence).	
406(f) .....	37:253(c) (11th sentence).	
406(g) .....	37:253(c) (13th through 16th, and last, sentences).	

In subsection (b), the words “to and from such locations” are omitted as covered by subsection (c)(3).

In subsection (c), the 15 words preceding clause (1) of the first sentence are substituted for the 1st 7 words of the 1st sentence of section 253(c) of existing title 37. The 39th through 47th words of the 2d sentence of section 253(c) of existing title 37 are omitted as covered by section 411(a) of this revised title.

In subsection (d), the words “the weight of the baggage and household effects stored . . . may not be more than” are substituted for the words “in no instance shall the weight stored . . . exceed”. The words “except as prescribed in regulations” are substituted for the words “except that a longer period may be authorized by regulations promulgated”. The words “Secretaries concerned” are substituted for the words “respective Secretaries” to conform to other subsections of the source statute.

In subsection (f), the words “of a member” are inserted for clarity. The words “if he dies” are substituted for the words “upon the death of a member”. The words “under chapter 3 of this title” are sub-

stituted for the reference to section 232(e) of title 37, since subsection (e) was redesignated as subsection (d) by section 2(2) of the Act of March 31, 1955, cited above.

In subsection (g), the words “under chapter 61 of title 10” are inserted for clarity. The words “under any other law” are substituted for the words “for any other reason”. The words “In addition,” are substituted for the word “Such”, and the words “the member” are substituted for the word “him”, for clarity. The words “section 404(c) of this title” are substituted for the words “subsection (a) of this section” to reflect the section of this revised title which restates that subsection.

## 1982 ACTS

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
406(j) .....	31:650a.	Aug. 1, 1953, ch. 305, §604, 67 Stat. 349.

The text of 31:650a (related to a member of an armed force) is omitted as unnecessary because of 37:404(a)(3). The words “On and after August 1, 1953” are omitted as executed. The words “A member . . . is entitled to” are substituted for “personnel” for clarity and consistency in the title. The word “baggage” is added for consistency in the title. The words “dependents, baggage, or household effects” are substituted for “such personnel” for clarity. The word “otherwise” is omitted as surplus. The words “used to pay for that transportation” are substituted for “charged with all expenses in connection with such travel including” for clarity.

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
406(k) .....	37:406 (note).	Feb. 9, 1976, Pub. L. 94-212, §747, 90 Stat. 176.

The words “to carry out subsection (b) of this section” are substituted for “for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code” to eliminate unnecessary words.

## PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of subsec. (j) of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

July 10, 1952, ch. 630, title VI, §605, 66 Stat. 531.  
Oct. 18, 1951, ch. 512, title VI, §605, 65 Stat. 423.  
Sept. 6, 1950, ch. 896, ch. X, title VI, §605, 64 Stat. 752.  
Oct. 29, 1949, ch. 787, title VI, §605, 63 Stat. 1017.  
June 24, 1948, ch. 632, 62 Stat. 652.  
July 30, 1947, ch. 357, title I, 61 Stat. 554.  
July 16, 1946, ch. 583, 60 Stat. 545.  
July 3, 1945, ch. 265, 59 Stat. 388.  
June 28, 1944, ch. 303, 58 Stat. 577.  
July 1, 1943, ch. 185, 57 Stat. 351.  
July 2, 1942, ch. 477, 56 Stat. 614.  
June 30, 1941, ch. 262, 55 Stat. 371.  
June 13, 1940, ch. 343, 54 Stat. 356.  
Apr. 26, 1939, ch. 88, 53 Stat. 598.  
June 11, 1938, ch. 347, 52 Stat. 647.  
July 1, 1937, ch. 423, 50 Stat. 448.

## AMENDMENTS

1998—Subsec. (a)(2)(B)(v). Pub. L. 105-261, §561(f), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (b)(1)(A). Pub. L. 105-261, §631(a)(1), struck out “, or reimbursement therefor,” after “household effects” and inserted at end “Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).”

Subsec. (b)(1)(D). Pub. L. 105-261, §632, inserted before period at end of second sentence “, unless the addi-

tional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member”.

Subsec. (b)(1)(F). Pub. L. 105-261, §631(a)(2), added subpar. (F).

Subsec. (g)(1)(C). Pub. L. 105-261, §561(f), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (h)(3). Pub. L. 105-261, §653(b), added par. (3).

Subsecs. (j) to (m). Pub. L. 105-261, §631(b)(1), redesignated subsecs. (k) to (m) as (j) to (l), respectively, and struck out former subsec. (j) which authorized the Secretary concerned to pay monetary allowance to member of armed forces or of Commissioned Corps of the Public Health Service who participates in a program in which member's baggage and household effects are transported by privately owned or rental vehicle or in which member provides labor in connection with transportation of baggage and household effects.

1997—Subsec. (c). Pub. L. 105-85, §603(d)(1)(B), substituted “sections 403(c), 404, and 405” for “sections 404 and 405” in introductory provisions.

Subsec. (h)(2)(C). Pub. L. 105-85, §631, substituted a period for a comma at end of cl. (iii) and struck out concluding provisions which read as follows: “if the sentence is approved under section 860(c)(2) of title 10.”

1996—Subsec. (b)(1)(B). Pub. L. 104-201, §621(a), inserted at end “If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.”

Subsec. (b)(1)(E). Pub. L. 104-106, §1505(d), struck out “of this paragraph” after “as provided in subparagraph (A)”.

Subsec. (h)(1). Pub. L. 104-106, §623, in concluding provisions, substituted “who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member” for “who became 21 years of age” and inserted “still” before “be considered as a dependent of the member.”

Subsec. (h)(1)(B). Pub. L. 104-201, §368(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned or leased by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10.”

Subsec. (i). Pub. L. 104-106, §642(a)(1), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: “The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report at the end of each fiscal year fiscal year stating—

“(1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents under subsection (a) or (h); and

“(2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive such allowances or transportation.”

Pub. L. 104-106, §1502(b), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for

“Committees on Armed Services of the Senate and House of Representatives” in introductory provisions. Amendment executed before amendment by section 642(a)(1) of Pub. L. 104-106, see above, pursuant to section 1506 of Pub. L. 104-106, set out as a note under section 101 of Title 10, Armed Forces.

Subsec. (j). Pub. L. 104-106, § 642(a)(1), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (j)(1). Pub. L. 104-201, § 624(1), substituted “The Secretary concerned may pay a monetary allowance to a member of the armed forces or a member of the Commissioned Corps of the Public Health Service” for “Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) are available to pay a monetary allowance to a member” and “Secretary concerned” for “Secretary of the military department concerned”.

Subsec. (j)(3). Pub. L. 104-201, § 624(2), added par. (3).

Subsecs. (k) to (n). Pub. L. 104-106, § 642(a)(1), redesignated subsecs. (l) to (n) as (k) to (m), respectively. Former subsec. (k) redesignated (j).

1993—Subsec. (a)(2)(B)(v). Pub. L. 103-160, § 561(l)(1), substituted “nine-year period” for “five-year period”.

Subsec. (b)(1)(E). Pub. L. 103-160, § 1182(d)(1), made technical amendment to directory language of Pub. L. 102-241. See 1991 Amendment note below.

Subsec. (g)(1)(C). Pub. L. 103-160, § 561(l)(1), substituted “nine-year period” for “five-year period”.

1992—Subsec. (g)(1)(A). Pub. L. 102-484, § 1054(a)(4), inserted a semicolon after “title 10”.

Subsec. (n). Pub. L. 102-484, § 622(a), added subsec. (n). 1991—Subsec. (a)(1). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “paragraph (2)”.

Subsec. (a)(2)(A). Pub. L. 102-25, § 702(b)(3), struck out “of this paragraph” after “subparagraph (B)”.

Subsec. (a)(2)(B). Pub. L. 102-25, § 702(b)(3), struck out “of this paragraph” after “Subparagraph (A)”.

Subsec. (b)(1)(A). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “paragraph (2)”.

Subsec. (b)(1)(C). Pub. L. 102-190, § 1111(d)(4), in table, inserted provisions relating to pay grade W-5.

Subsec. (b)(1)(E). Pub. L. 102-241, as amended by Pub. L. 103-160, § 1182(d)(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “Under regulations prescribed by the Secretary of Defense, cadets at the United States Military Academy and the United States Air Force Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with a change of temporary or permanent station, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for such cadets and midshipmen shall be 350 pounds.”

Pub. L. 102-25, § 702(b)(3), struck out “of this paragraph” after “subparagraph (A)”.

Subsec. (b)(2). Pub. L. 102-25, § 702(b)(1), (2), struck out “of this subsection” after “paragraph (1)” and “of this section” after “subsection (d)” and “subsection (g)(1)”.

Subsec. (c). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsections (a) and (b)”.

Subsec. (e). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (a) or (b)”.

Subsec. (g)(3). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “paragraph (2)”.

Subsec. (h)(1). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (d)” and “subsection (b)”.

Subsec. (i)(1). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (a) or (h)”.

Subsec. (k)(1). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (b)” in two places. 1990—Subsec. (a)(2)(B)(v). Pub. L. 101-510, § 503(b)(1), added cl. (v).

Subsec. (a)(4). Pub. L. 101-510, § 503(b)(3), added par. (4).

Subsec. (b)(1)(C). Pub. L. 101-510, § 1484(i)(9), inserted a period at end of footnote 2.

Subsec. (b)(1)(E). Pub. L. 101-510, § 622(a), added subpar. (E).

Subsec. (g)(1). Pub. L. 101-510, § 503(b)(2), added subpar. (C) and inserted “involuntarily separated,” after “placed on that list,” in concluding provisions.

Subsec. (k). Pub. L. 101-510, § 621, revived amendment by Pub. L. 99-145, § 614(a). See 1985 Amendment note below.

1989—Subsec. (b)(1)(C). Pub. L. 101-189, § 623(b), inserted “in pounds” after “weight allowance” in provisions preceding table.

Subsec. (b)(1)(D). Pub. L. 101-189, § 623(a), added subpar. (D).

1988—Subsec. (b)(1)(A). Pub. L. 100-456, § 602(a)(1), substituted “within the weight allowances listed in subparagraph (C)” for “within such weight allowances prescribed by the Secretaries concerned”.

Subsec. (b)(1)(C). Pub. L. 100-456, § 602(a)(2), added subpar. (C).

1987—Subsec. (h)(1)(B). Pub. L. 100-180 inserted “or leased” after “owned”.

1986—Subsec. (a)(2)(A). Pub. L. 99-661, § 652(a), amended subpar. (A) generally, inserting cl. (i) designation, redesignating former cl. (i) as cl. (ii), and striking out former cl. (ii) which read as follows: “is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned”.

Subsec. (d). Pub. L. 99-661, § 620(a), inserted “In the event a member’s baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member’s pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.”

Subsec. (e). Pub. L. 99-661, § 617(a)(1), substituted “(as the case may be), plus a per diem” for “, as the case may be” in introductory provisions.

Subsec. (f). Pub. L. 99-661, § 617(a)(2), inserted “, plus a per diem for the member’s dependents,” after “member”.

Subsec. (g)(1). Pub. L. 99-661, § 617(a)(3), inserted “, and to a per diem for his dependents” after “404(c) of this title” in concluding provisions.

Subsec. (h). Pub. L. 99-661, § 652(b), designated existing provisions as par. (1), amended first sentence generally, and added par. (2). Prior to amendment, first sentence read as follows: “In the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects—

“(1) authorize the movement of the member’s dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

“(2) authorize the transportation of one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents to that location by means of transportation authorized under section 2634 of title 10.”

Subsec. (i). Pub. L. 99-433 struck out “quarter” after “fiscal year” in provisions preceding par. (1) and substituted “fiscal year” for “quarter” in pars. (1) and (2).

Subsec. (j). Pub. L. 99-661, § 617(a)(4), inserted “plus a per diem for the member’s dependents,” after “household effects”.

Subsecs. (l), (m). Pub. L. 99-661, § 620(b)(1), added subsec. (l) and redesignated former subsec. (l) as (m).

1985—Subsec. (a)(1). Pub. L. 99-145, § 612(b), substituted “, reimbursement therefor, or a monetary al-

lowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned" for "for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed".

Subsec. (k). Pub. L. 99-145, §1303(b)(9), substituted "for providing transportation of household effects of members of the armed forces under subsection (b)" for "to carry out subsection (b)".

Pub. L. 99-145, §614, which designated existing provisions as par. (1), inserted "or in which a member provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member (including packing, crating, and loading)", and added par. (2), expired Sept. 30, 1989, pursuant to section 614(b) of Pub. L. 99-145, set out as an Effective and Termination Dates of 1985 Amendment note below. Section 614(b) of Pub. L. 99-145 was repealed and the amendment made by section 614(a) of Pub. L. 99-145 was revived effective Oct. 1, 1989, by Pub. L. 101-510, §621, set out as a Revival of Expired Amendment note below.

Subsec. (l). Pub. L. 99-145, §617(a), added subsec. (l).

1983—Subsec. (b)(1). Pub. L. 98-94 designated existing provisions as subpar. (A), struck out provisions relating to a monetary allowance for transportation of a motor vehicle on change of permanent station, and added subpar. (B) relating to a monetary allowance for transportation of a motor vehicle on permanent change of station.

1982—Subsec. (j). Pub. L. 97-258 added subsec. (j).

Subsec. (k). Pub. L. 97-295 added subsec. (k).

1981—Subsec. (a). Pub. L. 97-60, §121(b)(1), designated existing provisions as par. (1), inserted "paragraph (2) of this subsection and" before "subsection (i) of this section", and added pars. (2) and (3).

Subsec. (a)(1). Pub. L. 97-86, §404(1), struck out "and subsection (i) of this section" after "Except as provided in paragraph (2) of this subsection".

Subsec. (b). Pub. L. 97-60, §121(b)(2), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2) of this subsection, in" for "In", inserted provision relating to temporary storage in excess of 180 days and to monetary allowances in the case of the transportation of motor vehicles in cases in which transportation is authorized under section 2634 of title 10, and added par. (2).

Subsec. (g). Pub. L. 97-60, §121(b)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) thereof, struck out provisions following par. (1)(B), that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to his selected home, the member paid that excess cost, that if a member authorized to select a home under section 404(c) of this title accrued that right or any entitlement under this subsection but died before he exercised it, that right or entitlement accrued to and could be exercised by his surviving dependents, or his baggage and household effects could be shipped to the home of the person legally entitled thereto if there were no surviving dependents, and that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to the member's selected home, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, paid that excess cost, and added pars. (2) and (3).

Subsec. (h). Pub. L. 97-86, §404(2), substituted "In the case of a member" for "Except as provided in subsection (i) of this section, in the case of a member".

Subsec. (h)(2). Pub. L. 97-60, §121(b)(4), substituted "that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents" for "owned by the member and for his or his dependents' personal use".

Subsec. (i). Pub. L. 97-86, §404(3), substituted provisions requiring the Secretary, at the end of each fiscal year quarter, to submit to the Committees on Armed Services of the Senate and House of Representatives a

report covering the number of dependents overseas receiving allowances or transportation for dependents under subsec. (a) or (h) of this section and the number of dependents overseas not authorized to receive such allowances or transportation for provisions that formerly had placed a numerical limit on the number of dependents overseas receiving allowances and transportation.

1980—Subsecs. (d)(2), (g)(2). Pub. L. 96-513 inserted references to separation pay in two places in subsec. (d)(2) and in two places in subsec. (g)(2).

1979—Subsec. (a). Pub. L. 96-107, §814(1), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (h). Pub. L. 96-107, §814(2), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (i). Pub. L. 96-107, §814(3), added subsec. (i).

1968—Subsec. (d)(2). Pub. L. 90-623 substituted "90" for "ninety".

1966—Subsec. (b). Pub. L. 89-718, §58(1), substituted "change of temporary or permanent station" for "temporary or permanent change of station".

Subsec. (d). Pub. L. 89-680, §1(2), extended authority permitting a one-year period for nontemporary storage of baggage and household effects under regulations for members being separated from the service who are confined to a hospital or are in its vicinity undergoing medical treatment to include members who are being retired, placed on the temporary retired disability list, discharged, or released from active duty, and expanded coverage to include members retired or placed on the temporary disability retired list under chapter 61 of title 10, members retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than ninety days, discharged with severance pay or released involuntarily from active duty with readjustment pay, and inserted provisions for payment of cost of storage by the member concerned in certain cases.

Subsec. (g). Pub. L. 89-718, §§58(2), 59, inserted "is" before "placed" in cl. (1) and substituted "members" for "members".

Pub. L. 89-680, §1(3), inserted, in authorization for transportation for dependents, baggage, and household effects to the home selected under section 404(c) of this title, provisions limiting the entitlement to not later than one year from the date of retirement, placement on the list, discharge, or release, except as prescribed in regulations by the Secretaries concerned.

1965—Subsec. (h)(2). Pub. L. 89-101 substituted "by means of transportation authorized under section 2634 of title 10" for "on a vessel owned, leased, or chartered by the United States or by privately owned American shipping services".

1964—Subsec. (h). Pub. L. 88-431 added subsec. (h).

#### EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by section 653(b) of Pub. L. 105-261, see section 653(e) of Pub. L. 105-261, set out as a note under section 2634 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(d)(1)(B) of Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 368(b) of Pub. L. 104-201 effective Apr. 1, 1997, see section 368(c) of Pub. L. 104-201, set out as a note under section 2634 of Title 10, Armed Forces.

Section 621(b) of Pub. L. 104-201 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997."

## EFFECTIVE DATE OF 1993 AMENDMENT

Section 1182(d)(1) of Pub. L. 103-160 provided in part that the amendment made by that section is effective as of Dec. 19, 1991.

## EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1990 AMENDMENT

Section 622(b) of Pub. L. 101-510 provided that: "The amendment made by subsection (a) [amending this section] shall be applicable to baggage and household effects transported on or after the date of the enactment of this Act [Nov. 5, 1990]."

## EFFECTIVE DATE OF 1989 AMENDMENT

Section 623(c) of Pub. L. 101-189 provided that: "The authority provided in subparagraph (D) [37 U.S.C. 406(b)(1)(D)], as added by subsection (a), shall apply with respect to the transportation of baggage and household effects occurring after June 30, 1989."

## EFFECTIVE DATE OF 1988 AMENDMENT

Section 602(b) of Pub. L. 100-456 provided that: "The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects occurring after June 30, 1989."

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 617(b) of Pub. L. 99-661 provided that: "The amendments made by subsection (a) [amending this section] shall apply to travel performed after the date of the enactment of this Act [Nov. 14, 1986]."

Section 620(c) of Pub. L. 99-661 provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act [Nov. 14, 1986].

"(2) The amendments made by subsection (b) [amending this section and section 2634 of Title 10, Armed Forces] shall apply only with respect to members whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act [Nov. 14, 1986]."

Section 652(e)(1), (2) of Pub. L. 99-661 provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act [Nov. 14, 1986].

"(2)(A) The amendments made by subsection (b) [amending this section] shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act [Nov. 14, 1986].

"(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code."

EFFECTIVE AND TERMINATION DATES OF 1985  
AMENDMENT

Amendment by section 612(b) of Pub. L. 99-145 applicable to travel performed after Sept. 30, 1985, see section 612(c) of Pub. L. 99-145, set out as an Effective Date of 1985 Amendment note under section 404 of this title.

Section 614(b) of Pub. L. 99-145, which provided that the amendments by section 614(a) of Pub. L. 99-145, amending this section, were to expire Sept. 30, 1989, was repealed by Pub. L. 101-510, div. A, title VI, § 621, Nov. 5, 1990, 104 Stat. 1580. See Revival of Expired Amendment note below.

Section 617(b) of Pub. L. 99-145 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985."

## EFFECTIVE DATE OF 1981 AMENDMENT

Enactment of subsec. (a)(3) and amendment of subsec. (b)(1) by Pub. L. 97-60 effective Oct. 14, 1981, enactment of subsecs. (a)(2) and (b)(2) and amendment of subsec. (h)(2) effective Nov. 1, 1981, and applicable to members who are separated from the service or released from active duty on or after Nov. 1, 1981, and enactment of subsec. (g)(2) and (3) effective Nov. 1, 1981, and applicable to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after Nov. 1, 1981, except that such enactment not to apply to any member who before Nov. 1, 1981, had completed eighteen years of active service, see section 121(d) of Pub. L. 97-60, set out as a note under section 404 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT; REIMBURSEMENT  
OF EXPENSES

Amendment by Pub. L. 89-101 effective May 1, 1965, and personal expenses for transportation of motor vehicles transported after Apr. 30, 1965, and before July 30, 1965, reimbursable, see section 3 of Pub. L. 89-101, set out as a note under section 2634 of Title 10, Armed Forces.

## STORAGE OF HOUSEHOLD EFFECTS

Section 503(c) of Pub. L. 101-510, as amended by Pub. L. 103-160, div. A, title V, § 561(i)(2), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105-261, div. A, title V, § 561(f), Oct. 17, 1998, 112 Stat. 2025, provided that:

"(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on September 30, 2001.

"(2) For purposes of this subsection, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10, United States Code."

## REVIVAL OF EXPIRED AMENDMENT

Section 621 of Pub. L. 101-510 provided that: "Subsection (b) of section 614 of the Department of Defense Authorization Act, 1986 [Pub. L. 99-145, set out as an Effective and Termination Dates of 1985 Amendment note above] (37 U.S.C. note) is repealed. The amendments made by subsection (a) of that section [amending this section] are hereby revived effective as of October 1, 1989."

PROHIBITION ON RETROACTIVE PAYMENTS UNDER 1985  
AMENDMENT

Section 614(c) of Pub. L. 99-145 prohibited payment of allowances to members by virtue of the amendments made by subsection (a), amending this section, in con-



nection with transportation of baggage and household effects provided the member before Nov. 8, 1985.

ALLOWANCES FOR LABOR IN CONNECTION WITH TRANSPORTATION OF MEMBERS' BAGGAGE AND EFFECTS; REPORT TO CONGRESS

Section 614(d) of Pub. L. 99-145 required Secretary of Defense to submit a report to Congress not later than Sept. 30, 1988, regarding the operation of any program carried out by the military departments under which payment of a monetary allowance is made to a member who provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member and to include recommendations for legislative action the Secretary considers appropriate.

MONETARY ALLOWANCE IN LIEU OF TRANSPORTATION OF HOUSEHOLD EFFECTS

Pub. L. 94-212, title VII, §747, Feb. 9, 1976, 90 Stat. 176, which provided that appropriations available for transportation of household goods of members of armed forces under subsec. (b) of this section shall be available as a monetary allowance for such transportation, payable in advance under regulations of the Secretary in an amount which would provide savings to the Government when compared with the total costs which would otherwise have been incurred under subsec. (b) of this section, was repealed and reenacted as subsec. (k) of this section by Pub. L. 97-295, §§3(4), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1314. Subsec. (k) was subsequently redesignated (j) and repealed.

FUNERAL TRANSPORTATION AND LIVING EXPENSE BENEFITS; VIETNAM CONFLICT

Pub. L. 93-257, Mar. 29, 1974, 88 Stat. 53, provided that: "SECTION 1 [Short title]. This Act may be cited as the 'Funeral Transportation and Living Expense Benefits Act of 1974'.

"SEC. 2 [Findings]. (a) The United States did in 1973 provide transportation and other amenities to families of five hundred and fifty-six returned prisoners of war for reunions upon these men's arrival in the continental United States after release from imprisonment by the government of the Democratic Republic of Vietnam and did in 1973 also provide transportation and other amenities to these returned prisoners of war and their families to attend ceremonies in their honor in Washington, District of Columbia.

"(b) The remains of other prisoners of war, having died in captivity in Southeast Asia, are now being returned to the United States for burial.

"(c) The United States owes no lesser degree of respect, honor or solicitude to the memories of the men who died in captivity and their families than in the cases of those who survived and returned alive to the United States.

"(d) It is fitting and proper, therefore, as a mark of respect to those men who died in captivity while serving in the Armed Forces of the United States, that comparable courtesies and amenities be extended to the families of these deceased military personnel.

"SEC. 3 [Benefits; deceased prisoners of war or members missing in action; eligible family members]. (a) The Secretary of Defense is authorized to provide funeral transportation and living expenses benefits for the family of any deceased member of the Armed Forces who shall have died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains shall have been returned to the United States after January 27, 1973.

"(b) Such benefits shall include transportation round-trip from such family members' places of residence to the place of burial for such deceased member of the Armed Forces, living expenses and other such allowances as the Secretary shall deem appropriate.

"(c) Eligible family members shall include the deceased's widow, children, stepchildren, mother, father,

stepfather and stepmother, or if none of these shall desire to be granted such benefits, the deceased's brothers, sisters, halfbrothers and halvesisters."

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Family separation allowance, see section 427 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 406a, 406b, 406c, 407, 409, 411, 420, 427, 1003 of this title; title 5 section 4109; title 10 sections 1174a, 1175, 2013, 2634; title 14 section 512.

**§ 406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified**

Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

(2) modified to direct him to make a different change of station.

(Added Pub. L. 88-238, §1(1), Dec. 23, 1963, 77 Stat. 475.)

EFFECTIVE DATE; LIMITATIONS

Section 2 of Pub. L. 88-238 provided that: "This Act [enacting this section] becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act [Dec. 23, 1963], has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act [enacting this section] been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act."

APPROPRIATIONS

Section 3 of Pub. L. 88-238 provided that: "Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act [enacting this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 420 of this title.

**§ 406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating**

(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is on permanent duty aboard a ship which is being overhauled or inactivated away

from its home port and whose dependents are residing at the home port of the ship is entitled to transportation, transportation in kind, reimbursement for personally procured transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of overhaul or inactivation to the home port on or after after the thirty-first calendar day, and every sixtieth calendar day after the thirty-first calendar day after the date on which the ship enters the overhaul or inactivation port or after the date on which the member becomes permanently attached to the ship, whichever date is later. However, in no event shall the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of overhaul or inactivation to the port of overhaul or inactivation. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commercial round-trip travel.

(c) In any case in which a member of the uniformed services is assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) Section 421 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 91-210, §1(1), Mar. 13, 1970, 84 Stat. 53; amended Pub. L. 93-170, Nov. 29, 1973, 87 Stat. 689; Pub. L. 96-513, title V, §516(11), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97-22, §11(b)(3)(A), July 10, 1981, 95 Stat. 138; Pub. L. 99-145, title VI, §616(a), (c)(1), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100-26, §8(d)(7), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100-180, div. A, title XII, §1233(a)(3), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101-189, div. A, title VI, §624(b), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 102-484, div. A, title X, §1054(a)(5), Oct. 23, 1992, 106 Stat. 2502.)

#### AMENDMENTS

1992—Subsec. (d). Pub. L. 102-484 substituted “Section 421” for “Section 420”.

1989—Subsec. (c). Pub. L. 101-189 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “A member of the uniformed services on permanent duty aboard a ship which undergoes a change of home port to the overhaul or inactivation port and the member's dependents may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.”

1987—Subsecs. (a), (b). Pub. L. 100-26, as amended by Pub. L. 100-180, substituted “round-trip” for “round

trip” wherever appearing in subsec. (a) and “round-trip” for “roundtrip” in subsec. (b).

1985—Pub. L. 99-145, §616(c)(1), struck out “away from home port” in section catchline.

Subsecs. (a) to (d). Pub. L. 99-145, §616(a), designated existing provisions as subsec. (a), substituted “calendar day, and every sixtieth calendar day after the thirty-first calendar day” for “, ninety-first, and one hundred and fifty-first calendar day”, and added subsecs. (b) to (d).

1981—Pub. L. 97-22 substituted “uniformed services” for “Uniformed Services” in section catchline.

1980—Pub. L. 96-513 substituted “uniformed services” for “Uniformed Services”, “title” for “chapter”, and “later. However,” for “later: *Provided, however, That*”.

1973—Pub. L. 93-170 substituted “overhauling or inactivating” for “overhauling” in section catchline, and “overhauled or inactivated” and “overhaul or inactivation” for “overhauled” and “overhaul” respectively, wherever appearing in text.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 1233(a)(3) of Pub. L. 100-180 applicable as if included in the enactment of the Defense Technical Corrections Act of 1987, Pub. L. 100-26, see section 1233(c) of Pub. L. 100-180, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 616(b) of Pub. L. 99-145 provided that: “The travel allowances authorized by the amendments made by this section [amending this section] are payable only for travel that commences after September 30, 1985, but may be paid for members assigned to vessels being overhauled or inactivated away from home port on the date of the enactment of this Act [Nov. 8, 1985].”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 420 of this title.

### § 406c. Travel and transportation allowances: members assigned to a vessel under construction

(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location other than—

(A) the designated home port of the ship; or

(B) the area where the dependents of the member are residing,

is entitled to transportation, or an allowance for transportation under section 404(d)(3) of this title, for round-trip travel from the port of construction to either of those locations as provided in paragraph (2).

(2) A member referred to in paragraph (1) shall be entitled to such transportation or allowance on or after the thirty-first day (and every sixtieth day after the thirty-first day) after the later of—

(A) the date on which the ship enters the construction port; and

(B) the date on which the member becomes permanently assigned to the ship.

(3) The amount of reimbursement for personally procured transportation or the allowance for transportation under this subsection may

not exceed the cost of Government-procured commercial round-trip air travel.

(b) **DEPENDENTS TRAVEL.**—(1) In lieu of the entitlement of a member of the uniformed services to transportation under subsection (a), the Secretary concerned may provide transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title for the travel of the dependents of the member from the designated home port of the ship, or the area where the dependents of the member are residing, to the port of construction.

(2) The total reimbursement for transportation for the member's dependents under paragraph (1) may not exceed the cost of Government-procured commercial round-trip travel.

(c) **CHANGE OF HOME PORT.**—In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) **APPLICATION OF OTHER LAW.**—Section 420 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 101-189, div. A, title VI, §624(a)(1), Nov. 29, 1989, 103 Stat. 1447; amended Pub. L. 102-190, div. A, title VI, §622, Dec. 5, 1991, 105 Stat. 1378.)

#### AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102-190 substituted “the designated home port of the ship, or the area where the dependents of the member are residing,” for “the location that was the home port of the ship before commencement of construction”.

### § 407. Travel and transportation allowances: dislocation allowance

(a) **ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.**—(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service described in paragraph (2) is entitled to a primary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status.

(2) A member of the uniformed services referred to in paragraph (1) is any of the following:

(A) A member who makes a change of permanent station and the member's dependents actually make an authorized move in connection with the change, including a move by the dependents—

(i) to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

(ii) to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station.

(B) A member whose dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title.

(C) A member whose dependents actually move from their place of residence under circumstances described in section 406a of this title.

(D) A member who is without dependents and—

(i) actually moves to a new permanent station where the member is not assigned to quarters of the United States; or

(ii) actually moves from a place of residence under circumstances described in section 406a of this title.

(E) A member who is ordered to move in connection with the closure or realignment of a military installation and, as a result, the member's dependents actually move or, in the case of a member without dependents, the member actually moves.

(3) If a primary dislocation allowance is paid under this subsection to a member described in subparagraph (C) or (D)(ii) of paragraph (2), the member is not entitled to another dislocation allowance as a member described in subparagraph (A) or (E) of such paragraph in connection with the same move.

(b) **SECONDARY ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.**—(1) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a primary dislocation allowance under subsection (a) as a member described in paragraph (2)(C) or (2)(D)(ii) of such subsection, the member is also entitled to a secondary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status if, subsequent to the member or the member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title.

(2) If a secondary dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance as a member described in paragraph (2)(A) or (2)(E) of subsection (a) in connection with those moves.

(c) **DISLOCATION ALLOWANCE RATES.**—(1) The amount of the dislocation allowance to be paid under this section to a member shall be based on the member's pay grade and dependency status at the time the member becomes entitled to the allowance.

(2) The initial rate for the dislocation allowance, for each pay grade and dependency status, shall be equal to the rate in effect for that pay grade and dependency status on December 31, 1997, as adjusted by the average percentage increase in the rates of basic pay for calendar year 1998. Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rates for the dislocation allowance for that calendar year by the percentage equal to the average percentage increase in the rates of basic pay for that calendar year.

(d) FISCAL YEAR LIMITATION; EXCEPTIONS.—(1) A member is not entitled to more than one dislocation allowance under this section during a fiscal year unless—

(A) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

(B) the member is ordered to a service school as a change of permanent station;

(C) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

(D) subparagraph (C) or (D)(ii) of subsection (a)(2) or subsection (b) apply with respect to the member or the member's dependents.

(2) This subsection does not apply in time of national emergency or in time of war.

(e) FIRST OR LAST DUTY.—A member is not entitled to payment of a dislocation allowance under this section when the member is ordered from the member's home to the member's first duty station or from the member's last duty station to the member's home.

(f) RULE OF CONSTRUCTION.—For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

(g) ADVANCE PAYMENT.—A dislocation allowance payable under this section may be paid in advance.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 474; Pub. L. 89-26, §1(3), (4), May 22, 1965, 79 Stat. 117; Pub. L. 89-718, §60, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-207, §1(4), Dec. 16, 1967, 81 Stat. 651; Pub. L. 97-60, title I, §124, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99-145, title VI, §611(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §619(a), Nov. 14, 1986, 100 Stat. 3881; Pub. L. 100-180, div. A, title VI, §613, Dec. 4, 1987, 101 Stat. 1093; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, §624, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104-201, div. A, title VI, §622(a), Sept. 23, 1996, 110 Stat. 2548; Pub. L. 105-85, div. A, title VI, §632(a), Nov. 18, 1997, 111 Stat. 1795.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
407(a) .....	37:253(c) (4th sentence).	Oct. 12, 1949, ch. 681,
407(b) .....	37:253(c) (5th, 6th, and 7th sentences).	§ 303(c) (4th through 8th sentences); added
407(c) .....	37:253(c) (8th sentence).	Mar. 31, 1955, ch. 20, §2(12), 69 Stat. 21.

In subsection (a), the words "Except as provided in subsections (b) and (c) of this section" and "for one month" are inserted for clarity. The words "make an authorized move" are substituted for the words "are authorized to move and actually move".

In subsection (b), the words "is not entitled to . . . more than one" are substituted for the words "shall be entitled . . . for not more than one". The words "the payment of" and "for not more than one permanent change of station" are omitted as surplusage. Clauses (1) and (2) are substituted for the last 29 words of the 5th and 6th sentences of section 253(c) of existing title 37.

#### AMENDMENTS

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to dislocation allowances for members of the uniformed services.

1996—Subsec. (a). Pub. L. 104-201 substituted "two and one-half months" for "two months" in introductory provisions.

Pub. L. 104-106, §624(b)(1), in concluding provisions, substituted "paragraph (3) or (4)(B)" for "clause (3) or (4)(B)" and "paragraph (1) or (5)" for "clause (1)".

Subsec. (a)(5). Pub. L. 104-106, §624(a), added par. (5).

Subsec. (b). Pub. L. 104-106, §624(b)(2), substituted "paragraph (3) or (4)(B) of subsection (a)" for "subsection (a)(3) or (a)(4)(B)" and "paragraph (1) or (5) of subsection (a)" for "subsection (a)(1)".

1991—Pub. L. 102-25 struck out "of this section" wherever appearing in subsecs. (a) to (c).

1987—Subsec. (f). Pub. L. 100-180 added subsec. (f).

1986—Pub. L. 99-661 amended section generally. Prior to amendment, section read as follows:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the Secretary concerned, a member of a uniformed service—

"(1) whose dependents make an authorized move in connection with his change of permanent station;

"(2) whose dependents are covered by section 405a(a) of this title; or

"(3) without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States;

is entitled to a dislocation allowance equal to his basic allowance for quarters for two months as provided for a member of his pay grade and dependency status in section 403 of this title. For the purposes of this subsection, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents. An allowance payable under this section may be paid in advance.

"(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

"(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year;

"(2) the member is ordered to a service school as a change of permanent station; or

"(3) the member's dependents are covered by section 405a(a) of this title.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

"(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home."

1985—Subsec. (a). Pub. L. 99-145 substituted "two months" for "one month" in first sentence.

1981—Subsec. (a). Pub. L. 97-60 inserted sentence in provision following cl. (3) authorizing the payment in advance of an allowance payable under this section.

1967—Subsec. (a). Pub. L. 90-207 authorized a dislocation allowance for a member of a uniformed service without dependents who is transferred to a permanent station where he is not assigned to quarters of the United States and for dislocation allowance purposes deemed a member whose dependents may not make an authorized move in connection with a change of permanent station to be a member without dependents.

1966—Subsecs. (a), (b)(2). Pub. L. 89-718 substituted "change of permanent station" for "permanent change of station".

1965—Subsec. (a). Pub. L. 89-26, §1(3), authorized a dislocation allowance for a member of the uniformed service whose dependents are covered by section 405a(a) of this title.

Subsec. (b)(3). Pub. L. 89-26, §1(4), added cl. (3).

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 632(b) of Pub. L. 105-85 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

## EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104-201 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.”

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 619(b) of Pub. L. 99-661 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 14, 1986] and shall apply only to moves which commence on or after that date.”

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 611(b) of Pub. L. 99-145 provided that: “The amendment made by this section [amending this section] shall apply to moves begun after September 30, 1985.”

## EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

## EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 420, 1003, 1006 of this title.

**§ 408. Travel and transportation allowances: travel within limits of duty station**

(a) A member of a uniformed service may be directed, by regulations of the head of the department or agency in which he is serving, to procure transportation necessary for conducting official business of the United States within the limits of his station. Expenses so incurred by the member for train, bus, streetcar, taxicab, ferry, bridge, and similar fares and tolls, or for the use of privately owned vehicles at a fixed rate a mile plus parking fees, shall be defrayed by the department or agency under which he is serving, or the member is entitled to be reimbursed for the expense.

(b)(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who performs emergency duty described in paragraph (2) is entitled to travel and transportation allowances under section 404 of this title for that duty.

(2) The emergency duty referred to in paragraph (1) is duty that—

(A) is performed by a member under emergency circumstances that threaten injury to property of the Federal Government or human life;

(B) is performed at a location within the limits of the member's station (other than at

the residence or normal duty location of the member);

(C) is performed pursuant to the direction of competent authority; and

(D) requires the member's use of overnight accommodations.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 99-145, title VI, § 619(a), Nov. 8, 1985, 99 Stat. 642; Pub. L. 100-26, § 8(d)(6), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-190, div. A, title VI, § 623, Dec. 5, 1991, 105 Stat. 1379.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
408 .....	40:491(m).	June 30, 1949, ch. 288, § 211(m); added Sept. 1, 1954, ch. 1211, § 2 (13th par.), 68 Stat. 1126.

The words “(as defined in the Career Compensation Act of 1949, as amended)” and “so directed” are omitted as surplusage. The words “official business of the United States” are substituted for the words “official Government business”.

## AMENDMENTS

1991—Pub. L. 102-190 designated existing provisions as subsec. (a) and added subsec. (b).

1987—Pub. L. 100-26 substituted “privately owned” for “privately-owned”.

1985—Pub. L. 99-145 inserted “plus parking fees” after “fixed rate a mile”.

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 619(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to parking fees incurred after September 30, 1985.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 420 of this title.

**§ 409. Travel and transportation allowances: house trailers and mobile homes**

(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d).

(2) Except as provided in subsection (c), transportation of a house trailer or mobile home dwelling under paragraph (1) is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or depend-

ent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

(b) Any payment authorized by this section may be made in advance of the transportation concerned.

(c) A member or member's dependent who is entitled to the transportation of baggage or household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(d) The Secretaries concerned shall prescribe regulations to carry out this section.

(e) In this section, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 88-406, Aug. 7, 1964, 78 Stat. 383; Pub. L. 89-718, §§61, 62, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-246, Jan. 2, 1968, 81 Stat. 782; Pub. L. 96-342, title VIII, §808(a)(1), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 100-26, §8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
409 .....	37:253(c) (12th sentence).	Oct. 12, 1949, ch. 681, §303(c) (12th sentence); added Mar. 31, 1955, ch. 20, §2(13), 69 Stat. 22; Mar. 17, 1958, Pub. L. 85-347, 72 Stat. 37; re-stated Oct. 4, 1961, Pub. L. 87-374, 75 Stat. 804.

The words "the United States, except in Hawaii or Alaska," are substituted for the words "the continental United States" to conform to the definition of United States in section 101(1) of this revised title and to reflect the opinion of the Comptroller General in B-139624, June 29, 1959, that Alaska was not included within those words. The words "an agent of the United States" are substituted for the words "the Government", for clarity. The words "United States" are substituted for the word "Government". The words "of the uniformed services" are omitted as surplusage in view of the definition of member in section 101(23) of this revised title.

#### AMENDMENTS

1991—Subsec. (a)(1) to (3). Pub. L. 102-25 struck out "of this section" and "of this subsection" wherever appearing.

1987—Subsec. (e). Pub. L. 100-26 inserted "the term" after "In this section,".

1980—Pub. L. 96-342 completely revised and expanded provisions covering the travel and transportation allowances for the movement of house trailers and mobile homes, changing the structure of the section from a single unlettered paragraph to one consisting of five subsections lettered (a) to (e).

1968—Pub. L. 90-246 substituted "74 cents" for "51 cents" as maximum allowable cost-of-transportation mileage rate.

1966—Pub. L. 89-718 substituted "household effects" for "household goods" and "48" for "forty-eight".

1964—Pub. L. 88-406 substituted "continental United States, within Alaska, or between the continental United States and Alaska" for "United States except in Hawaii or Alaska", "51 cents" for "36 cents", inserted "by the United States or" in cl. (2), and defined "continental United States".

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 808(b) of Pub. L. 96-342 provided that: "The amendments made by subsection (a) [amending this section] shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980."

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406a, 411, 420, 554, 1003 of this title; title 5 section 4109; title 10 section 2013.

### § 410. Travel and transportation allowances: miscellaneous categories

(a) The following persons are entitled to such travel and transportation allowances provided by section 404 of this title as prescribed by the Secretaries concerned—

- (1) cadets of the United States Military Academy;
- (2) midshipmen of the United States Naval Academy;
- (3) cadets of the United States Air Force Academy;
- (4) cadets of the Coast Guard Academy;
- (5) applicants for enlistment;
- (6) rejected applicants for enlistment;
- (7) general prisoners;
- (8) discharged prisoners;
- (9) insane patients transferred from military hospitals to other hospitals or to their homes; and
- (10) persons discharged from Saint Elizabeths Hospital after transfer from a uniformed service.

(b) The Secretary concerned shall, in prescribing allowances under subsection (a), consider the rights of the United States, as well as those of the persons concerned.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
410(a) .....	37:253(e) (less last 25 words).	Oct. 12, 1949, ch. 681, §303(e), 63 Stat. 815.

## HISTORICAL AND REVISION NOTES—Continued

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
410(b) .....	37:253(e) (last 25 words).	

## AMENDMENTS

1991—Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Cadets, midshipmen, and naval officer candidates, travel and transportation allowances, see section 422 of this title.

Regulations for administration of section, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 420, 422, 1003 of this title.

**§ 411. Travel and transportation allowances: administrative provisions**

(a) For the administration of sections 404(a), (b), and (d)–(f), 404a, 405, 405a, 406(a)–(f), 407, 409, and 410 of this title, the Secretaries concerned shall prescribe regulations that are, as far as practicable, uniform for all of the uniformed services.

(b) In establishing the rates and kinds of allowances authorized by the sections of this title designated by subsection (a), the Secretaries concerned shall—

(1) consider the average cost of common carrier transportation when prescribing a monetary allowance in place of transportation;

(2) consider the current economic data on the cost of subsistence, including lodging and other necessary incidental expenses related thereto, when prescribing per diem rates and designating areas as high cost areas; and

(3) consider the average cost of transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.

(c) The Secretaries concerned shall determine what constitutes a travel status for the purposes of the sections of this title designated by subsection (a).

(d) The Secretary concerned shall define the term “permanent station” for the purposes of the sections of this title designated by subsection (a). The definition shall include a shore station or the home yard or home port of a vessel to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized change in the home yard or home port of such a vessel is a change of permanent station.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-26, §1(5), May 22, 1965, 79 Stat. 117; Pub. L. 96-343, §5(b), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 96-513, title V, §516(12), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97-60, title I, §122(b), Oct. 14, 1981, 95 Stat. 1003; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
411(a) .....	37:253(h).	Oct. 12, 1949, ch. 681,
411(b) .....	37:253(f).	§ 303(c) (10th sentence),
411(c) .....	37:253(g).	(f), (g), (h), 63 Stat. 814.
411(d) .....	37:253(c) (10th sentence).	

In subsection (a), section 253(h) (provisos) of existing title 37 is omitted, since the regulations to which reference is made have been issued. The exceptions to sections 404(c) and 406(g) are inserted, since the source text for those subsections require regulations prescribed thereunder to be uniform.

In subsections (c) and (d), the words “for the purposes of the sections of this title designated by subsection (a) of this section” are inserted to clarify the coverage of the source statute.

## AMENDMENTS

1991—Subsecs. (b) to (d). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1981—Subsec. (a). Pub. L. 97-60 inserted reference to section 404a.

1980—Subsec. (b)(1). Pub. L. 96-343, §5(b)(1), substituted “common carrier transportation” for “first-class transportation, including sleeping accommodations.”

Subsec. (b)(2). Pub. L. 96-343, §5(b)(2), inserted “and designating areas as high cost areas” after “rates”.

Subsec. (b)(3). Pub. L. 96-343, §5(b)(3), substituted “transportation” for “first-class transportation, including sleeping accommodations” and “allowances” for “rates”.

Subsec. (d). Pub. L. 96-513 substituted “term” for “words”.

1965—Subsec. (a). Pub. L. 89-26 inserted reference to section 405a.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-60 effective Apr. 1, 1982, see section 122(c) of Pub. L. 97-60, set out as an Effective Date note under section 404a of this title.

## EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Amendment by Pub. L. 96-343 effective with respect to travel and transportation performed after Aug. 31, 1980, see section 5(c) of Pub. L. 96-343, set out as a note under section 404 of this title.

## EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 420, 1003 of this title.

**§ 411a. Travel and transportation allowances: travel performed in connection with convalescent leave**

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel from his place of medical treatment in the continental United States to a place selected by him and approved

by the Secretary concerned, and return, when the Secretary concerned determines that the member is traveling in connection with authorized leave for convalescence from illness or injury incurred while the member was eligible for the receipt of hostile fire pay under section 310 of this title.

(b) The allowances prescribed under this section may not be at rates more than the rates authorized under section 404(d)(1) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 90-207, §9(1), Dec. 16, 1967, 81 Stat. 655.)

#### EFFECTIVE DATE

Section effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

#### § 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the 48 contiguous States and the District of Columbia who is ordered to a consecutive tour of duty at the same duty station or who is ordered to make a change of permanent station to another duty station outside the 48 contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned, or his designee, or to a place no farther distant than his home of record and from that place to his designated post of duty. Such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.

(2) Under the regulations referred to in paragraph (1), a member may defer the travel for which the member is paid travel and transportation allowances under such paragraph until not more than one year after the date on which the member begins the consecutive tour of duty at the same duty station or reports to another duty station under the order involved, as the case may be. If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.

(b) The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 93-213, §1(1), Dec. 28, 1973, 87 Stat. 910; amended Pub. L. 97-60, title I, §125, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99-145, title VI, §615(a), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100-26, §8(d)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100-180, div. A, title VI, §614(d)(1), (2), Dec. 4, 1987, 101 Stat. 1095; Pub. L. 102-190, div. A, title VI, §624, Dec. 5, 1991, 105 Stat. 1379; Pub. L. 104-201, div. A, title VI, §623(a), Sept. 23, 1996, 110 Stat. 2548.)

#### AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-201 inserted at end “If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.”

1991—Subsec. (a)(2). Pub. L. 102-190 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If, because of military necessity, a member authorized travel and transportation allowances under this subsection is denied leave between the two tours of duty outside the 48 contiguous States and the District of Columbia, the member shall be authorized to use such travel and transportation allowances from his current duty station at the time the member is first granted leave—

“(A) which is to be taken away from the member’s permanent duty station; and

“(B) for which a travel and transportation allowance is not otherwise authorized.”

1987—Pub. L. 100-180, §614(d)(2), amended section catchline generally, substituting “leave between consecutive overseas tours” for “certain leave”.

Subsec. (a). Pub. L. 100-26 substituted “48” for “forty-eight” wherever appearing.

Subsec. (a)(2). Pub. L. 100-180, §614(d)(1), substituted “the time the member is first granted leave—” for “the first time the member is granted leave.” and added subpars. (A) and (B).

1985—Subsec. (a)(1). Pub. L. 99-145 struck out “if he is a member without dependents,” after “home of record”, struck out “, if either his last duty station or his designated post of duty is a restricted area in which dependents are not authorized” after “post of duty” in first sentence, and inserted “such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.”

1981—Subsec. (a). Pub. L. 97-60 designated existing provisions as par. (1), inserted “who is ordered to a consecutive tour of duty at the same duty station or” after “District of Columbia”, and added par. (2).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 623(b) of Pub. L. 104-201 provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of November 1, 1995.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 615(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985.”

#### § 411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service who is serving at a duty station outside the United States in an area specifically designated for the purposes of this section by the Secretary concerned may be paid for or provided transportation for himself and his dependents authorized to reside at his duty station—

(1) to another location outside the United States having different social, climatic, or environmental conditions than those at the duty station at which the member is serving; or

(2) to a location in the United States.

(b) When the transportation authorized by subsection (a) is provided by the Secretary con-



cerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1003; amended Pub. L. 100-26, § 8(d)(9), Apr. 21, 1987, 101 Stat. 286; Pub. L. 105-261, div. A, title VI, § 633(a), (b)(1), Oct. 17, 1998, 112 Stat. 2044.)

#### AMENDMENTS

1998—Pub. L. 105-261, § 633(b)(1), substituted “rest and recuperative leave from certain stations” for “leave from certain stations” in section catchline.

Subsec. (b). Pub. L. 105-261, § 633(a), added subsec. (b) and struck out former subsec. (b) which read as follows: “The transportation authorized by this section is limited to transportation of the member, and of each dependent of the member, for one round-trip during any tour of at least 24, but less than 36, consecutive months or two round-trips during any tour of at least 36 consecutive months.”

1987—Subsec. (b). Pub. L. 100-26 substituted “round-trip” for “roundtrip” and “round-trips” for “roundtrips”.

#### **§ 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents**

(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the location of the member or dependents, at the time notification of the personal emergency is received, or the member's permanent duty station (and if the member's dependents reside at another overseas location and receive a station allowance, from that location)—

(A) to the international airport in the continental United States closest to the location from which the member and his dependents departed;

(B) to any airport in the continental United States to which travel can be arranged at the same or a lower cost as travel obtained under subparagraph (A); or

(C) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transpor-

tation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member's permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) and for the dependents as described in paragraph (2).

(4) Whenever transportation is provided under this section, return transportation may be provided to the location from which the member or dependent departed or the member's duty station.

(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b).

(d) In this section, the term “continental United States” means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 98-525, title VI, § 612(a)(1), Oct. 19, 1984, 98 Stat. 2538; Pub. L. 100-26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-337, div. A, title VI, § 623, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 106-65, div. A, title VI, § 633, Oct. 5, 1999, 113 Stat. 661.)

#### AMENDMENTS

1999—Subsec. (b)(1). Pub. L. 106-65 struck out “or” at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

1994—Subsec. (b)(1). Pub. L. 103-337, § 623(1)(A), substituted “from the location of the member or dependents, at the time notification of the personal emergency is received, or” for “from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 103-337, § 623(1)(B), substituted “closest to the location” for “closest to the international airport”.

Subsec. (b)(4). Pub. L. 103-337, § 623(2), substituted “to the location from which the member or dependent departed or the member's duty station.” for “to the international airport from which the member or dependent departed or the international airport nearest the member's duty station.”

1991—Subsecs. (a), (b)(3), (c). Pub. L. 102-25 struck out “of this section” in subsecs. (a) and (c) and “of this subsection” in two places in subsec. (b)(3).

1987—Subsec. (d). Pub. L. 100-26 inserted “the term” after “In this section.”

1984—Pub. L. 98-525 substituted “personal emergencies for certain members and dependents” for “cer-

tain emergencies for members performing temporary duty" in section catchline.

Subsec. (a). Pub. L. 98-525 substituted "transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member)" for "a member of a uniformed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to the serious illness or injury or the death of a dependent of the member".

Subsec. (b). Pub. L. 98-525 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 98-525 redesignated subsec. (b) as (c), substituted "Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available" for "Transportation under this section may be authorized only upon a determination that Government transportation is not reasonably available, considering the nature of the personal emergency involved", and substituted "The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section" for "The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member's place of temporary duty (or from his ship or unit) to the member's permanent duty station (or the home port of the ship or unit), and return (if applicable)".

Subsec. (d). Pub. L. 98-525 added subsec. (d).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 612(b) of Pub. L. 98-525 provided that: "The amendment made by subsection (a)(1) [amending this section] shall apply with respect to transportation begun after September 30, 1984."

#### **§ 411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty**

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to a personal emergency of the member.

(b) Transportation under this section may be authorized only upon a determination that Gov-

ernment transportation is not reasonably available, considering the nature of the personal emergency involved. The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member's place of temporary duty (or from his ship or unit) to the member's permanent duty station (or the home port of the ship or unit), and return (if applicable).

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 100-456, div. A, title VI, § 623(a), Sept. 29, 1988, 102 Stat. 1984.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 substituted "incident to a personal emergency of the member" for "incident to the serious illness or injury or the death of a dependent of the member".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 623(b) of Pub. L. 100-456 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1988."

#### **§ 411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies**

(a) Under uniform regulations prescribed by the Secretaries concerned, round trip travel and transportation allowances may be provided the dependents of a member who dies while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member.

(b)(1) Except as provided in paragraph (2), allowances under this section are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for 2 days.

(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under this section may be provided to and from such place and may be extended to accommodate the time necessary for such travel.

(c) In this section, the term "dependents" includes the dependents specified in paragraphs (1) and (2) of section 401(a) of this title. However, if no person qualifies under such paragraphs, the parents of a member (including stepparent or parent by adoption, or any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least 5 years before the member became 21 years of age) may be paid the travel and transportation allowances authorized under this section.

(Added Pub. L. 99-145, title VI, § 620(a)(1), Nov. 8, 1985, 99 Stat. 642; amended Pub. L. 100-456, div. A, title VI, § 632(b), Sept. 29, 1988, 102 Stat. 1986; Pub. L. 103-35, title II, § 204(a)(2), May 31, 1993, 107 Stat. 102.)

#### AMENDMENTS

1993—Subsec. (c). Pub. L. 103-35 substituted "section 401(a) of this title" for "section 401 of this title".

1988—Subsec. (a). Pub. L. 100-456 substituted “or inactive duty in order that such dependents may” for “for a period of 30 days or more in order to”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 632(c) of Pub. L. 100-456 provided that: “The amendments made by this section [amending this section and section 411h of this title] shall take effect on October 1, 1988.”

#### EFFECTIVE DATE

Section 620(b) of Pub. L. 99-145 provided that: “The travel and transportation allowance authorized by the amendments made by this section [enacting this section] is payable only for travel that commences after September 30, 1985.”

### § 411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

- (1) is stationed outside the United States; and
- (2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station;

may be paid the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

(b) The transportation allowance authorized by subsection (a) is an allowance provided—

- (1) in connection with authorized leave; and
- (2) for the cost of transportation—

(A) from a member's permanent duty station to a place approved by the Secretary concerned and from that place to his permanent duty station; or

(B) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

(c) The transportation allowance authorized by subsection (a) may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

- (1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or
- (2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.

(d) The authority under this section shall expire on October 1, 1989.

(Added Pub. L. 100-180, div. A, title VI, § 614(a)(1), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, § 624(a), Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, § 653(c)(1), Nov. 29, 1989, 103 Stat. 1462.)

#### AMENDMENTS

1989—Subsec. (a). Pub. L. 101-189 struck out “to” after “may be paid” in concluding provisions.

1988—Subsec. (a). Pub. L. 100-456 substituted “may be paid” for “is entitled” in concluding provisions.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 624(b) of Pub. L. 100-456 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act [Sept. 29, 1988].”

#### EFFECTIVE DATE

Section 614(b) of Pub. L. 100-180 provided that: “Section 411g of title 37, United States Code, as added by subsection (a), shall apply with respect to agreements to extend overseas tours of duty made after the date of the enactment of this Act [Dec. 4, 1987].”

#### GAO REVIEW AND REPORT

Section 614(c) of Pub. L. 100-180 directed Comptroller General to review implementation of 37 U.S.C. 411g after it has been in effect for one year, for the purpose of comparing the total cost to the Department of Defense of the transportation allowance allowed under such section with the total cost that would have been incurred by the Department of Defense over such period if such section had not been in effect and to submit to Congress a report on such review no later than Mar. 1, 1989.

### § 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, transportation described in subsection (c) may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member may contribute to the member's health and welfare.

(2) A member referred to in paragraph (1) is a member of the uniformed services who—

(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and

(C) is hospitalized in a medical facility in or outside the United States.

(b)(1) In this section, the term “family member”, with respect to a member, means—

(A) the member's spouse;

(B) children of the member (including stepchildren, adopted children, and illegitimate children);

(C) parents of the member or persons in loco parentis to the member, as provided in paragraph (2); and

(D) siblings of the member.

(2) Parents of a member or persons in loco parentis to a member include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

(3) In this section, the term “health and welfare”, with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.

(c) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member and the location of the medical facility in which the member is hospitalized.

(d)(1) The transportation authorized by subsection (a) may be provided by any of the following means:

(A) Transportation in-kind.

(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

(C) Reimbursement for the commercial cost of transportation.

(2) An allowance payable under this subsection may be paid in advance.

(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

(Added Pub. L. 100-180, div. A, title VI, §615(a)(1), Dec. 4, 1987, 101 Stat. 1095; amended Pub. L. 100-456, div. A, title VI, §632(a), Sept. 29, 1988, 102 Stat. 1985; Pub. L. 103-337, div. A, title VI, §624, Oct. 5, 1994, 108 Stat. 2785.)

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-337, §624(a)(1), substituted “may contribute to” for “is necessary for”.

Subsec. (a)(2)(B). Pub. L. 103-337, §624(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “is seriously ill or seriously injured; and”.

Subsec. (b)(3). Pub. L. 103-337, §624(b), added par. (3).

1988—Subsec. (a)(2). Pub. L. 100-456 amended par. (2) generally, inserting “or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section)” in subpar. (A).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective Oct. 1, 1988, see section 632(c) of Pub. L. 100-456, set out as a note under section 411f of this title.

#### EFFECTIVE DATE

Section 615(b) of Pub. L. 100-180 provided that: “The authority to provide transportation or to pay transportation expenses under section 411h of title 37, United States Code, as added by subsection (a), shall be effective only with respect to travel that occurs on or after the effective date of regulations prescribed under such section.”

### § 412. Appropriations for travel: may not be used for attendance at certain meetings

Appropriations of the Department of Defense that are available for travel may not, without the approval of the Secretary concerned or his designee, be used for expenses incident to attendance of a member of an armed force under that department at a meeting of a technical, scientific, professional, or similar organization.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
412 .....	5:174a.	Aug. 1, 1953, ch. 305, § 605, 67 Stat. 349.

The words “may not . . . be used” are substituted for the words “shall not be available”. The words “on and after August 1, 1953” are omitted as executed. The words “Secretary concerned” are substituted for the words “Secretary of the department concerned” to conform to other sections of this revised title and to the definition in section 101(5) of this revised title. So much of the source statute as relates to civilian employees is omitted as superseded by the Act of July 7, 1958, Pub. L. 85-507, 72 Stat. 327.

#### PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

July 10, 1952, ch. 630, title VI, §606, 66 Stat. 531.

Oct. 18, 1951, ch. 512, title VI, §606, 65 Stat. 445.

Sept. 6, 1950, ch. 896, ch. X, title VI, §607, 64 Stat. 752.

Oct. 29, 1949, ch. 787, title VI, §607, 63 Stat. 1018.

June 24, 1948, ch. 632, 62 Stat. 652.

July 30, 1947, ch. 357, title I, 61 Stat. 554.

July 16, 1946, ch. 583, 60 Stat. 545.

July 3, 1945, ch. 265, 59 Stat. 388.

June 28, 1944, ch. 303, 58 Stat. 577.

### § 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 100-180, div. A, title XIII, §1314(c)(1), Dec. 4, 1987, 101 Stat. 1176.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
413 .....	10:142(d) (less applicability to basic pay).	[None.]

#### AMENDMENTS

1987—Pub. L. 100-180, in amending section generally, in section catchline inserted “and Vice Chairman”, and in text inserted “and Vice Chairman” and substituted “are” for “is”.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 1314(e)(2) of Pub. L. 100-180 provided that: “The amendments made by subsections (c)(1), (d)(3), and (d)(4) [amending this section and provisions set out as notes under sections 431 and 1009 of this title] shall take effect as of October 1, 1986.”

### § 414. Personal money allowance

(a) In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this sec-

tion while serving as Surgeon General of the Public Health Service;

(3) \$2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) \$2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) \$4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard.

(b) In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) Superintendent of the Naval Postgraduate School—\$400;

(2) Commandant of Midshipmen at the Naval Academy—\$800;

(3) President of the Naval War College—\$1,000;

(4) Superintendent of the Naval Academy—\$5,200; and

(5) Director of Naval Intelligence—\$5,200.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-718, § 49(a)(2), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 102-25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
414(a) .....	37:254.	Oct. 12, 1949, ch. 681, § 304, 63 Stat. 816; Aug. 10, 1956, ch. 1041, § 20(c), 70A Stat. 627; May 20, 1958, Pub. L. 85-422, § 1(1), 72 Stat. 127; Sept. 14, 1961, Pub. L. 87-233, § 3, 75 Stat. 507.
414(b) .....	37:257.	Aug. 2, 1946, ch. 756, § 3, 60 Stat. 853.

In subsection (b), the words “pay or” are inserted to conform to subsection (a). The word “position” is substituted for the words “capacities” and “officers”, respectively. In clause (1), the words “Superintendent of the Naval Postgraduate School” are substituted for the words “Head of the Postgraduate school at the Naval Academy” to reflect present terminology.

#### AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102-25 struck out “of this subsection” after “clause (1)”.

1966—Subsec. (a)(2). Pub. L. 89-718 struck out reference to service as the Director of the Coast and Geodetic Survey.

#### TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Or-

ganization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

#### § 415. Uniform allowance: officers; initial allowance

(a) Subject to subsection (b), an officer of an armed force is entitled to an initial allowance of not more than \$200 as reimbursement for the purchase of required uniforms and equipment—

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component;

(3) upon completing 14 periods, each of which was of at least two hours' duration, of inactive-duty training as a member of the Ready Reserve; or

(4) upon reporting for the first period of active duty required by section 2121(c) of title 10 as a member of the Armed Forces Health Professions Scholarship program.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a).

(c) An allowance of \$250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty or on inactive duty training status; and

(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-647, title II, § 202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-444, § 2(1), June 9, 1966, 80 Stat. 198; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-83, § 5(1), Sept. 11, 1967, 81 Stat. 221; Pub. L. 91-278, § 3(3), June 12, 1970, 84 Stat. 306; Pub. L. 96-76, title III, § 313(c), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-513, title IV, § 412, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 97-22, § 10(c), July 10, 1981, 95 Stat. 137; Pub. L. 97-60, title I, § 131(a), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
415(a) .....	37:255(a) (less provisos).	Oct. 12, 1949, ch. 681, § 305(a) (less 1st proviso); added Aug. 10, 1956, ch. 1041, § 20(d) (1st par., less 1st proviso), 70A Stat. 628.
415(b) .....	37:255(a) (2d proviso).	July 1, 1944, ch. 373, § 213; restated Apr. 27, 1956, ch. 211, § 2(a), 70 Stat. 116.
415(c) .....	37:255(a) (last proviso).	Oct. 12, 1949, ch. 681, § 306; added Aug. 10, 1956, ch. 1041, § 20(d) (last par.), 70A Stat. 629.
415(d) .....	42:214.	
415(e) .....	37:256.	

## HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U.S. Code)	Source (Statutes at Large)
	[Uncodified.]	Aug. 7, 1947, ch. 512, § 302(f), 61 Stat. 830.

In subsection (a), the words “Subject to subsections (b) and (c) of this section,” are inserted for clarity. The words “of an armed force” are inserted, since the source section, as originally enacted, did not apply to the Public Health Service or the Coast and Geodetic Survey. (See section 243 of the Armed Forces Reserve Act of 1952 (66 Stat. 492).) The words “of the Army, or the Air Force, without specification of component” are inserted to reflect the definition of “reserve component” in section 102(k) of the source statute. That definition is executed throughout this revised title. For that reason, the words “but not as a member of the Army without specification of component or the Air Force without specification of component, in section 255(a)(2) of existing title 37”, are omitted, and since those categories are excluded by the words “member of a reserve component”. The words “of a reserve component”, in section 255(a)(3) of existing title 37, are omitted, since the Ready Reserve cannot be in anything other than a reserve component.

In subsection (b), the words “heretofore or hereafter” are omitted as surplusage.

In subsection (c), the words “An officer” are substituted for the words “any individual”, since the revised section applies only to officers.

In subsection (d), the words “who is in pay grade O-1, O-2, or O-3” are substituted for the words “is receiving the pay of the junior assistant, assistant, or senior assistant grade” to reflect current terminology. (See chapter 3 of this revised title.) The last sentence is substituted for section 214 (words following semicolon) of title 14.

In subsection (e), the words “as a temporary officer” are inserted for clarity. The words “5596 or” are substituted for section 302(f) of the Act of August 7, 1947, cited above.

## AMENDMENTS

1991—Subsecs. (a), (b). Pub. L. 102-25 struck out “of this section”.

1981—Subsec. (a). Pub. L. 97-22 substituted “subsection (b) of this section” for “subsections (b) and (c) of this section”.

Subsec. (a)(4). Pub. L. 97-60 added par. (4).

1980—Subsec. (a). Pub. L. 96-513, § 412(1), (2), substituted “an officer of an armed force is entitled” for “a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled”.

Subsecs. (c), (d). Pub. L. 96-513, § 412(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), relating to limitations on qualifications for initial allowances by certain officers, was struck out.

Subsec. (e). Pub. L. 96-513, § 412(3), struck out subsec. (e) relating to uniform allowances for temporary officers or warrant officers.

1979—Subsec. (d). Pub. L. 96-76 in cl. (1) inserted provisions for applicability to officers on inactive duty training status, and struck out cl. (3) setting forth applicability to officers entitled to basic pay of pay grade O-1, O-2, or O-3.

1970—Subsec. (e). Pub. L. 91-278 provided for entitlement to uniform allowance of enlisted member appointed a warrant officer under section 213 of title 14.

1967—Subsec. (d)(3). Pub. L. 90-83 substituted “entitled to the basic pay” for “is entitled to the basic pay”.

1966—Subsec. (a). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

Subsec. (e). Pub. L. 89-444 substituted “section 214 of title 14” for “section 435 of title 14”.

1964—Subsec. (a). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(c) of Pub. L. 97-22 provided that the amendment made by that section is effective Sept. 15, 1981.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 412 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-76 effective Oct. 1, 1979, see section 314 of Pub. L. 96-76, set out as a note under section 206 of Title 42, The Public Health and Welfare.

## TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and all functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416, 417, 907 of this title.

**§ 416. Uniform allowance: officers; additional allowances**

(a) In addition to the allowance provided by section 415 of this title, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled to not more than \$100 as reimbursement for additional uniforms and equipment required on that duty, for each time that the officer enters on active duty for a period of more than 90 days.

(b) Subsection (a) does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than \$200; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-624, § 1, Oct. 3, 1964, 78 Stat. 1002; Pub. L. 88-647, title II, § 202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 96-513, title V, § 516(13), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 101-189, div. A, title VI, § 663(a), Nov. 29, 1989, 103 Stat. 1465.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
416(a) .....	37:255(b).	Oct. 12, 1949, ch. 681,
416(b) .....	37:255(c).	§ 305(b), (c); added Aug. 10, 1956, ch. 1041, § 20(d) (2d and 3d pars.), 70A Stat. 628; Sept. 2, 1958, Pub. L. 85-861, § 33(f), 72 Stat. 1568.

In subsection (a), the words “In addition to the initial uniform allowance authorized by section 431 (a)–(d) of this title” are substituted for the word “additional”. Section 255(b) (last proviso of 1st sentence) of existing title 37 is omitted as executed. The words “may not be included” are substituted for the words “shall be excluded”. Section 255(b) (last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words “a reserve officer”. (See revision note for section 415(a) of this revised title.)

In subsection (b), the introductory clause is substituted for the word “further”. The words “of an armed force” and “of the Army, or the Air Force, without specification of component” are inserted for the reasons stated in the revision note for section 415(a) of this revised title. Clauses (1) and (2) are substituted for section 255(c) (provisos) of existing title 37.

## AMENDMENTS

1989—Subsec. (a). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a), substituted “section 415 of this title” for “section 415(a)–(c) of this title and subsection (a) of this section” and “the officer” for “he”, and struck out former subsec. (a) which read as follows: “In addition to the initial uniform allowance authorized by section 415(a)–(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than \$50 as reimbursement for the purchase of required uniforms and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332(a)(2) of title 10, in an active status in one or more reserve components, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service.”

Subsec. (b). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a) and in remaining provisions of subsec. (b) substituted “Subsection (a) does not apply” for “However, this subsection does not apply”.

1980—Pub. L. 96-513 substituted “additional allowances” for “additional allowance” in section catchline.

1966—Subsec. (b). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (a). Pub. L. 88-624 substituted “in one or more reserve components” for “in a reserve component” and “section 1332(a)(2)” for “section 1332”.

Subsec. (b). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## SAVE PAY PROVISION

Section 663(b) of Pub. L. 101-189 provided that: “An officer of an armed force who, but for the amendments made by subsection (a) [amending this section], would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act [Nov. 29, 1989] shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act.”

## ALLOWANCE FOR SERVICE PRIOR TO OCTOBER 3, 1964

Section 2 of Pub. L. 88-624 provided that: “The amendments made by this Act [amending this section] do not entitle an officer to an allowance for any 4-year period of service completed prior to the effective date of this Act [Oct. 3, 1964].”

## CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 417 of this title.

**§ 417. Uniform allowance: officers; general provisions**

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)–(c) and 416 of this title within his department. The Secretary of Transportation, with the concurrence of the Secretary of the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)–(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)–(c) or 416 of this title, may if a different uniform is required, be paid a uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)–(c) and 416 of this title and subsections (a) and (b), an officer may count only that duty for which he is required to wear a uniform.

(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title X, § 1038(b), Feb. 10, 1996, 110 Stat. 432.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
417(a) .....	37:255(e).	Oct. 12, 1949, ch. 681, § 305 (1st proviso of (a)), (d), (e); added Aug. 10, 1956, ch. 1041, § 20(d) (1st proviso of 1st par., 4th par., and 5th par.), 70A Stat. 629.
417(b) .....	37:255(d).	
417(c) .....	37:255(a) (1st proviso).	

In subsection (a), the words “within that department” are inserted for clarity. The words “may prescribe” are substituted for the words “shall prescribe”, since the words “that he considers necessary” indicate that the prescribing of regulations is not mandatory.

Subsection (b) is substituted for section 255(d) (less last sentence) of existing title 37. Section 255(d) last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words “a reserve officer”. (See revision note for section 415(a) of this revised title.)

## AMENDMENTS

1996—Subsec. (d). Pub. L. 104-106 added subsec. (d).

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsections (a) and (b)”.

1968—Subsecs. (a), (b). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

**§ 418. Clothing allowance: enlisted members**

(a) The President may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the President shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which clothing is furnished or a uniform allowance is paid under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 104-106, div. A, title X, § 1038(c), Feb. 10, 1996, 110 Stat. 432; Pub. L. 104-201, div. A, title VI, § 654, Sept. 23, 1996, 110 Stat. 2583.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
418 .....	37:305.	Oct. 12, 1949, ch. 681, § 505, 63 Stat. 828.

The words “the armed forces” are substituted for the words “the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard” to conform to the definition in

section 101(4) of this title. The words “the Naval Reserve, the Marine Corps Reserve, . . . the National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Air Force Reserve, and the Coast Guard Reserve” are omitted, since, under the definitions of the armed forces concerned in sections 3062(c), 5001(a)(1) and (2), and 8062(d) of title 10, and section 751a of title 14, those organizations, or their successors, are components of the armed force concerned.

## AMENDMENTS

1996—Pub. L. 104-106 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (c). Pub. L. 104-201 substituted “for which clothing is furnished or a uniform allowance is paid under this section” for “for which a uniform allowance is paid under section 415 or 416 of this title”.

EX. ORD. NO. 10113. CLOTHING ALLOWANCES FOR  
ENLISTED PERSONNEL

Ex. Ord. No. 10113, Feb. 24, 1950, 15 F.R. 1065, provided: By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces, it is ordered as follows:

1. The Secretary of Defense with respect to enlisted men of the Army, the Navy, the Air Force, the Marine Corps, the Naval Reserve, the Marine Corps Reserve, the National Guard, the Air National Guard, the National Guard of the United States, the Organized Reserve Corps [Army Reserve] and the Air Force Reserve, and the Secretary of the Treasury with respect to enlisted men of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget [now Director of the Office of Management and Budget], to perform the functions vested in the President by section 505 of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress) [this section], relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary of the Treasury hereunder with respect to the Coast Guard and the Coast Guard Reserve shall, so far as practicable, be in conformity with those prescribed by the Secretary of Defense with respect to the Navy and Naval Reserve, respectively.

3. Existing regulations prescribing the quantity and kind of clothing furnished, and any cash allowances in lieu thereof, shall remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

4. The term “enlisted men” as used in this order shall be deemed to apply to enlisted persons of either sex.

5. This order shall become effective on April 1, 1950, and on that date shall supersede Executive Order No. 10049 [Apr. 4, 1949, 14 F.R. 1563] entitled “Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in Lieu Thereof, to Enlisted Men in the Armed Forces.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

**§ 419. Civilian clothing allowance**

Under regulations prescribed by the Secretary of Defense, an officer of an armed force who is assigned to a permanent duty station at a location outside the United States may be paid a civilian clothing allowance in such amount as the Secretary shall determine under regulations if



such officer is required to wear civilian clothing all or a substantial portion of the time in the performance of the officer's official duties. A clothing allowance under this section is in addition to any uniform allowance to which an officer is otherwise entitled under this title.

(Added Pub. L. 100-180, div. A, title VI, §611(a)(1)(B), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, §625, Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, §653(c)(2), Nov. 29, 1989, 103 Stat. 1462.)

#### PRIOR PROVISIONS

A prior section 419 was renumbered section 420 of this title.

#### AMENDMENTS

1989—Pub. L. 101-189 substituted “an officer” for “a officer” in two places and struck out “to” after “may be paid”.

1988—Pub. L. 100-456 substituted “officer” for “member” in three places, “may be paid” for “is entitled”, and “officer’s” for “member’s”.

#### EFFECTIVE DATE

Section 611(b) of Pub. L. 100-180 provided that: “Section 419 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Dec. 4, 1987]. No member may be paid a clothing allowance under such section for any period before such date.”

### § 420. Allowances while participating in international sports

(a) Section 717 of title 10 does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 404-411 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and housing authorized by sections 402 and 403 of this title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478, §419; Pub. L. 89-718, §64, Nov. 2, 1966, 80 Stat. 1123; renumbered §420, Pub. L. 100-180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093; Pub. L. 105-85, div. A, title VI, §603(d)(1)(C), Nov. 18, 1997, 111 Stat. 1782.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
419(a) .....	37:256a(a).	Oct. 12, 1949, ch. 681, §307;
419(b) .....	37:256a(b).	added Sept. 2, 1958,
419(c) .....	37:256a(c).	Pub. L. 85-861, §11, 72 Stat. 1556.

#### PRIOR PROVISIONS

A prior section 420 was renumbered section 421 of this title.

#### AMENDMENTS

1997—Subsec. (c). Pub. L. 105-85 substituted “housing” for “quarters”.

1966—Pub. L. 89-718 substituted “section 717 of title 10” for “section 716 of title 10” wherever appearing.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 406c of this title.

### § 421. Allowances: no increase while dependent is entitled to basic pay

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479, §420; renumbered §421, Pub. L. 100-180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
420 .....	37:231(g) (last proviso of last sentence).	Oct. 12, 1949, ch. 681, §102(g) (last proviso of last sentence), 63 Stat. 805.

The words “of a uniformed service” are inserted for clarity. The words “claiming a dependent as defined in this subsection” are omitted as surplusage. The words “under section 204 of this title” are substituted for the words “for the performance of duty as defined in section 232(e) of this revised title”.

#### PRIOR PROVISIONS

A prior section 421, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-132, §3(b), Oct. 2, 1963, 77 Stat. 212, provided for pay and allowances of contract surgeons, prior to repeal by Pub. L. 98-94, title IX, §932(e)(1), Sept. 24, 1983, 97 Stat. 650, eff. Oct. 1, 1983. See section 1091 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 406b, 427 of this title.

### § 422. Cadets and midshipmen

(a) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

- (1) initial travel to the educational institution in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-647, title II, §202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
422(a) .....	37:308 (less applicability to pay).	Oct. 12, 1949, ch. 681, §508 (less applicability to pay), 63 Stat. 828.
422(b) .....	10:6081(b) (9th through 17th words).	[None.]
	10:6081(c) (16th through 19th words).	[None.]
422(c) .....	10:6904(c).	[None.]
	10:6905(c).	[None.]
422(d) .....	10:6906(c) (1st sentence, less applicability to pay).	[None.]

In subsection (a), the words “prescribed under section 410 of this title” are inserted to reflect that revised section.

#### AMENDMENTS

1966—Subsec. (c). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (c). Pub. L. 88-647, §202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and “educational institution” for “college or university”, in text, and “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates”, in section catchline.

Subsec. (d). Pub. L. 88-647, §202(4)(C), struck out subsec. (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

### § 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
423 .....	37:303.	Oct. 12, 1949, ch. 681, §503, 63 Stat. 827.

The words “or which hereafter may be” are omitted as surplusage. The words “a person designated by him to investigate the matter” are substituted for the words “such person as he may designate for the purpose”.

#### REFERENCES IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, which was classified principally to chapter 4 (§231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of Title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former Title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§101 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 2 of former title 37, see Table preceding section 101 of this title.

### § 424. Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The leader of the United State Navy Band is entitled to the allowances of a lieutenant of the Navy.

(c) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10, is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(d) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

(e) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-189, §3, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95-551, §3(b)(2), Oct. 30, 1978, 92 Stat. 2069.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
424(a) .....	10:3536(b) (less applicability to basic pay).	[None.]
424(b) .....	10:4338(a) (as applicable to allowances).	[None.]
424(c) .....	10:6221(b) (less applicability to basic pay).	[None.]
424(d) .....	10:6222(e) (less applicability to basic pay).	[None.]
424(e) .....	10:6969(b) (less last sentence, and less applicability to basic pay).	[None.]

## AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-551 redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to allowances of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

1965—Subsec. (f). Pub. L. 89-189 added subsec. (f).

**§ 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour**

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
425 .....	10:6224.	[None.]

The words “do not forfeit” are substituted for the words “lose no” for clarity.

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

**[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

**§ 427. Family separation allowance**

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$100 if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this

subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A). The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders. Section 421 of this title does not apply to bar the entitlement to an allowance under this section. However, not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88-132, §11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, §1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91-533, §1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, §809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, §607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, §625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104-106, div. A, title VI, §606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, §607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105-85, div. A, title VI, §§603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795.)

## AMENDMENTS

1997—Subsec. (a). Pub. L. 105-85, §603(c)(3)(B)(i), redesignated subsec. (b)(1), (2) as subsec. (a)(1), (2), respectively, and inserted subsec. heading.

Pub. L. 105-85, §603(c)(3)(A), struck out heading and text of subsec. (a). Text read as follows: “In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

“(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

“(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.”

Subsec. (a)(1). Pub. L. 105-85, § 626, substituted “\$100” for “\$75” in introductory provisions.

Pub. L. 105-85, § 603(c)(3)(B)(ii), struck out “, including subsection (a),” after “under this title” in introductory provisions, inserted “or” at end of subpar. (B), substituted “station.” for “station; or” at end of subpar. (C), and struck out subpar. (D) which read as follows: “the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.”

Subsec. (b). Pub. L. 105-85, § 603(c)(3)(B)(iii), redesignated subsec. (b)(3) as subsec. (b), inserted heading, and substituted “subsection (a)” for “this subsection”. Former subsec. (b)(1), (2), and (4) redesignated subsecs. (a)(1), (2), and (c), respectively.

Subsec. (b)(5). Pub. L. 105-85, § 603(c)(3)(B)(v), struck out par. (5) which read as follows: “Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.”

Subsec. (c). Pub. L. 105-85, § 603(c)(3)(B)(iv), redesignated subsec. (b)(4) as subsec. (c), inserted heading, and substituted “subsection (a)(1)(A)” for “paragraph (1)(A) of this subsection”.

Subsec. (d). Pub. L. 105-85, § 603(c)(3)(B)(v), added subsec. (d).

1996—Subsec. (b)(1)(D). Pub. L. 104-201, § 607(a), added subpar. (D).

Subsec. (b)(4). Pub. L. 104-106 inserted “paragraph (1)(A) of” after “not entitled to an allowance under”.

Subsec. (b)(5). Pub. L. 104-201, § 607(b), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103-337, § 625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103-337, § 625(a)(1), struck out at beginning “A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.”

Subsec. (b)(3), (4). Pub. L. 103-337, § 625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102-190, § 625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102-190, § 625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102-190, § 625(a), substituted “\$75” for “\$60”.

Pub. L. 102-190, § 611(b), substituted “In” for “Except in time of war or of national emergency hereafter declared by Congress, and in”.

Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1986—Subsec. (b). Pub. L. 99-661, § 618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted “subparagraph (B) or (C) of paragraph (1)” for “clause (2) or (3)”, and added par. (3).

1985—Subsec. (b). Pub. L. 99-145 substituted “\$60” for “\$30”.

1980—Subsec. (b). Pub. L. 96-342 struck out “(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years’ or less service))” after “a member of a uniformed service with dependents”.

1970—Subsec. (b). Pub. L. 91-533 struck out “who is entitled to a basic allowance for quarters” after “(4 years’ or less service)”.

Pub. L. 91-529 inserted provisions authorizing payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(c)(3) of Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 625(b) of Pub. L. 103-337 provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 607(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 809(b) of Pub. L. 96-342 provided that: “The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980.”

#### EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91-533 provided that: “The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970].”

Section 2 of Pub. L. 91-529 provided that: “Section 1 of this Act [amending this section] is effective October 1, 1963.”

#### EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

#### SAVINGS PROVISION

Section 618(b) of Pub. L. 99-661 provided that: “Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a).”

#### TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Section 302 of Pub. L. 102-25 provided that:

“(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be \$75 for each month during the period described in subsection (b).

“(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

## FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: "That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to \$30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

"SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970]."

**§ 428. Allowance for recruiting expenses**

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92-129, title II, §205(a), Sept. 28, 1971, 85 Stat. 359.)

## EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as a note under section 302a of this title.

## PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

**§ 429. Travel and transportation allowances: minor dependent schooling**

Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.) for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.

(Added Pub. L. 95-561, title XIV, §1407(d)(1)(A), formerly §1407(c)(1)(A), Nov. 1, 1978, 92 Stat. 2367, renumbered §1407(d)(i)(A), Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559; amended Pub. L. 99-145, title XIII, §1303(b)(10), Nov. 8, 1985, 99 Stat. 741.)

## REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in text, is Pub. L. 95-561, title XIV, Nov. 1,

1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

## AMENDMENTS

1985—Pub. L. 99-145 inserted "(20 U.S.C. 921 et seq.)".

## EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provision to be construed in impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95-561, set out as a note under section 921 of Title 20, Education.

## TRANSFER OF FUNCTIONS

All functions of the Secretary of Defense and the Department of Defense under this section, with the exception of functions relating to operation of overseas institutions of higher education, were transferred to the Secretary of Education by section 3442(a) and (d) of Title 20, Education.

## DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99-145, set out as a note under section 133 of Title 10, Armed Forces.

## AUTHORITY UNDER THE DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AVAILABLE TO SECRETARY OF EDUCATION

The authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act, section 901 et seq. of Title 20, Education, made available to the Secretary of Education with respect to all functions transferred from the Secretary of Defense and Department of Defense under this section by section 3442(b) of Title 20, Education.

**§ 430. Travel and transportation: dependent children of members stationed overseas**

(a) Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service who—

(1) is assigned a permanent duty station outside the continental United States,

(2) is accompanied by his dependents at or near his duty station (unless his only dependents are in the category of dependent described in clause (3)), and

(3) has a dependent child who is under 23 years of age attending a school in the continental United States for the purpose of obtaining a secondary or undergraduate college education,

may be paid the allowance set forth in subsection (b) if he otherwise qualifies for such allowance.

(b)(1) A member described in subsection (a) may be paid a transportation allowance for each unmarried dependent child, who is under 23 years of age and is attending a school in the continental United States for the purpose of obtaining a secondary or undergraduate college education, of one annual trip between the school

being attended and the member's duty station outside the continental United States and return. The allowance authorized by this section may be transportation in kind or reimbursement therefor, as prescribed by the Secretaries concerned. However, the transportation authorized by this section may not be paid a member for a child attending a school in the continental United States for the purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or in the vicinity of the duty station of the member and is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.

(c) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) who is attending a school in Alaska or Hawaii.

(e) The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

(f) In this section, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 98-94, title IX, §910(a)(1), Sept. 24, 1983, 97 Stat. 638; amended Pub. L. 101-189, div. A, title VI, §625(a), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 101-510, div. A, title XIV, §1484(e)(1), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-261, div. A, title VI, §634, Oct. 17, 1998, 112 Stat. 2044.)

#### REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (b)(1), is title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102-25 struck out "of this subsection" after "clause (3)" in par. (2) and "of this section" after "subsection (b)" in concluding provisions.

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (a)".

1990—Subsec. (b). Pub. L. 101-510 inserted "(20 U.S.C. 921 et seq.)" after "Education Act of 1978".

1989—Subsec. (a). Pub. L. 101-189, §625(a)(1), inserted "continental" before "United States" in pars. (1) and (3) and struck out "oversea" before "duty station" in par. (2).

Subsec. (b). Pub. L. 101-189, §625(a)(2), inserted "continental" before "United States" in two places and substituted "outside the continental United States" for "in the oversea area".

Subsecs. (d) to (f). Pub. L. 101-189, §625(a)(3), added subsecs. (d) to (f).

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 625(b) of Pub. L. 101-189 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989]."

#### EFFECTIVE DATE

Section 910(b) of Pub. L. 98-94 provided that: "Section 430 of title 37, United States Code, as added by subsection (a), shall apply only with respect to travel begun after September 30, 1983."

#### DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99-145, set out as a note under section 133 of Title 10, Armed Forces.

Pub. L. 98-212, title VII, §799B, Dec. 8, 1983, 97 Stat. 1456, as amended by Pub. L. 98-396, title I, Aug. 22, 1984, 98 Stat. 1378, provided in part that: "After August 31, 1984, none of the funds appropriated to the Department of Defense for the travel and transportation of dependent students of military personnel stationed overseas shall be obligated for a transportation allowance for travel within or between the contiguous United States."

#### § 431. Benefits for certain members assigned to the Defense Intelligence Agency

(a) The Secretary of Defense may provide to members of the armed forces described in subsection (e) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Members of the armed forces may not receive benefits under both subsection (a) and any other provision of this title for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e) Subsection (a) applies to members of the armed forces who—

(1) are assigned—

(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

(2) are designated by the Secretary of Defense for the purposes of subsection (a).

(Added Pub. L. 99-145, title XIII, § 1302(b)(1), Nov. 8, 1985, 99 Stat. 738; amended Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-93, title V, § 502(b), Jan. 6, 1996, 109 Stat. 973; Pub. L. 106-65, div. A, title X, § 1067(2), Oct. 5, 1999, 113 Stat. 774.)

#### CODIFICATION

Another section 431 was renumbered section 432 of this title.

#### AMENDMENTS

1999—Subsec. (d)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Subsec. (a). Pub. L. 104-93, § 502(b)(1), substituted “described in subsection (e)” for “who are assigned to Defense Attaché Offices and Defense Intelligence Agency Liaison Offices outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection”.

Subsecs. (d), (e). Pub. L. 104-93, § 502(b)(2), (3), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: “Regulations prescribed pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.”

1991—Subsecs. (b) to (d). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

#### DELEGATION OF AUTHORITY OF SECRETARY OF DEFENSE

Section 1302(b)(3) of Pub. L. 99-145, as amended by Pub. L. 100-180, div. A, title XIII, § 1314(d)(4), Dec. 4, 1987, 101 Stat. 1176, provided that: “The authority of the Secretary of Defense under section 431 of title 37, United States Code, as added by paragraph (1), may be delegated in accordance with section 113(d) of title 10, United States Code.”

[Amendment to section 1302(b)(3) of Pub. L. 99-145 by Pub. L. 100-180 effective Oct. 1, 1986, see section 1314(e)(2) of Pub. L. 100-180, set out as a note under section 413 of this title.]

#### CROSS REFERENCES

Civilian personnel of Defense Intelligence Agency, entitlement to benefits similar to those provided by this section, see section 1605 of Title 10, Armed Forces.

### § 432. Travel and transportation: members escorting certain dependents

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an es-

cort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

(b) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(Added Pub. L. 99-661, div. A, title VI, § 615(a)(1), Nov. 14, 1986, 100 Stat. 3879, § 431; renumbered § 432, Pub. L. 100-26, § 8(b)(1), Apr. 21, 1987, 101 Stat. 285.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 192 of Title 10, Armed Forces, prior to enactment of this section by Pub. L. 99-145.

#### EFFECTIVE DATE

Section 615(b) of Pub. L. 99-661 provided that: “Section 431 [now 432] of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.”

### § 433. Allowance for muster duty

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 12319 of title 10 if the member is engaged in that duty for at least two hours.

(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

(c) The allowance authorized by this section may not be disbursed in kind. The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.

(Added Pub. L. 101-189, div. A, title V, § 502(b)(1), Nov. 29, 1989, 103 Stat. 1436; amended Pub. L. 101-510, div. A, title XIV, § 1484(h)(5), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104-106, div. A, title XV, § 1501(d)(4)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 105-85, div. A, title VI, § 627, Nov. 18, 1997, 111 Stat. 1795.)

#### AMENDMENTS

1997—Subsec. (c). Pub. L. 105-85 struck out “and shall be paid to the member on or before the date on which

the muster duty is performed” after “disbursed in kind” in first sentence and inserted “The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date.” after first sentence.

1996—Subsec. (a). Pub. L. 104-106 substituted “section 12319 of title 10” for “section 687 of title 10”.

1990—Subsec. (a). Pub. L. 101-510 substituted “section 687 of title 10” for “section 691 of title 10”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 1484(h)(5) of Pub. L. 101-510 provided that the amendment made by that section is effective as of Nov. 29, 1989.

### § 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

(a) REIMBURSEMENT OF REASONABLE SUBSISTENCE COSTS.—Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

(b) PERIOD OF AUTHORITY.—The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

(c) EFFECT OF LOCATION OF MEMBER'S PERMANENT DUTY STATION.—The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.

(Added Pub. L. 102-484, div. A, title VI, § 623(a)(1), Oct. 23, 1992, 106 Stat. 2422.)

#### EFFECTIVE DATE

Section 623(b) of Pub. L. 102-484 provided that: “Section 434 of title 37, United States Code, as added by subsection (a), shall apply with respect to escort duty described in that section which is performed on or after the date of the enactment of this Act [Oct. 23, 1992].”

### § 435.<sup>1</sup> Funeral honors duty: allowance

(a) ALLOWANCE AUTHORIZED.—The Secretary concerned may authorize payment of an allowance to a member of the Ready Reserve for any day on which the member performs at least two hours of funeral honors duty pursuant to section 12503 of title 10 or section 115 of title 32.

<sup>1</sup> So in original. Another section 435 is set out after this section.

(b) AMOUNT.—The daily rate of an allowance under this section is \$50.

(c) FULL COMPENSATION.—Except for expenses reimbursed under subsection (c) of section 12503 of title 10 or subsection (c) of section 115 of title 32, the allowance paid under this section is the only monetary compensation authorized to be paid a member for the performance of funeral honors duty pursuant to such section, regardless of the grade in which the member is serving, and shall constitute payment in full to the member.

(Added Pub. L. 106-65, div. A, title V, § 578(j), Oct. 5, 1999, 113 Stat. 630.)

#### CODIFICATION

Section 578(j) of Pub. L. 106-65, which directed the amendment of title 37 by adding this section at the end of chapter 4, was executed by adding this section at the end of chapter 7 to reflect the probable intent of Congress and the absence of a chapter 4 in title 37.

### § 435.<sup>1</sup> Per diem allowance for lengthy or numerous deployments

(a) PER DIEM REQUIRED.—The Secretary of the military department concerned shall pay a high-deployment per diem allowance to a member of the armed forces under the Secretary's jurisdiction for each day on which the member (1) is deployed, and (2) has, as of that day, been deployed 251 days or more out of the preceding 365 days.

(b) DEFINITION OF DEPLOYED.—In this section, the term “deployed”, with respect to a member, means that the member is deployed or in a deployment within the meaning of section 991(b) of title 10 (including any definition of “deployment” prescribed under paragraph (3) of that section).

(c) AMOUNT OF PER DIEM.—The amount of the high-deployment per diem payable to a member under this section is \$100.

(d) PAYMENT OF CLAIMS.—A claim of a member for payment of the high-deployment per diem allowance that is not fully substantiated by the recordkeeping system applicable to the member under section 991(c) of title 10 shall be paid if the member furnishes the Secretary concerned with other evidence determined by the Secretary as being sufficient to substantiate the claim.

(e) RELATIONSHIP TO OTHER ALLOWANCES.—A high-deployment per diem payable to a member under this section is in addition to any other pay or allowance payable to the member under any other provision of law.

(f) NATIONAL SECURITY WAIVER.—No per diem may be paid under this section to a member for any day on which the applicability of section 991 of title 10 to the member is suspended under subsection (d) of that section.

(Added Pub. L. 106-65, div. A, title V, § 586(b), Oct. 5, 1999, 113 Stat. 638.)

#### EFFECTIVE DATE

Pub. L. 106-65, div. A, title V, § 586(d)(2), Oct. 5, 1999, 113 Stat. 639, provided that: “Section 435 of title 37, United States Code (as added by subsection (b)) [this section], shall take effect on October 1, 2001.”

<sup>1</sup> So in original. Another section 435 is set out preceding this section.



## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12503 of this title; title 32 section 115.

**CHAPTER 9—LEAVE**

Sec.	
501.	Payments for unused accrued leave.
502.	Absences due to sickness, wounds, and certain other causes.
503.	Absence without leave or over leave.
504.	Cadets and midshipmen: chapter does not apply to.

## AMENDMENTS

1990—Pub. L. 101-510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

**§ 501. Payments for unused accrued leave**

(a) In this section, the term “discharge” means—

(1) in the case of an enlisted member, separation or release from active duty under honorable conditions, termination of an enlistment in conjunction with the commencement of a successive enlistment (without regard to the date of the expiration of the term of the enlistment being terminated), or appointment as an officer;

(2) in the case of an officer, separation or release from active duty under honorable conditions; and

(3) in the case of either an officer or an enlisted member, death while on active duty unless the decedent was put to death as lawful punishment for a crime or a military offense.

(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant in any uniformed service.

(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after February 9, 1976.

(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service.

(5) The limitation in the second sentence of paragraph (3) and in subsection (f) shall not apply with respect to leave accrued—

(A) by a member of a reserve component while serving on active duty in support of a contingency operation;

(B) by a member of the armed forces in the Retired Reserve while serving on active duty in support of a contingency operation; or

(C) by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps or a member of the Fleet Reserve or Fleet Marine Corps Reserve while the member is serving on active duty in support of a contingency operation.

(c) Unused accrued leave for which payment is made under subsection (b) is not considered as service for any purpose.

(d)(1) Payments for unused accrued leave under subsections (b) and (g), in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unused leave that accrued to him during that leave year.

(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.

(e)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge.

(f) The number of days upon which payment under subsection (b) or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after February 9, 1976. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the Secretary of Health and Human Services, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based is subject to subsection (f). A lump-sum payment may not be made under this subsection to an officer—